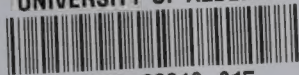


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- [ 1831-32 (688) VOL XXXII ]  
[ 1836 (611) VOL XXXIX ]  
[ 1837-38 [118] VOL XXXIX ]  
[ 1840 [257] VOL XXXII ]

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RETURNS AND CORRESPONDENCE  
RELATING TO THE BOUNDARY  
BETWEEN THE BRITISH POSSESSIONS  
IN NORTH AMERICA AND  
THE UNITED STATES OF AMERICA

*Colonies  
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# Contents

Command or  
Session Number

**Disputed Boundary Line between New Brunswick and the United States** 688  
Award of the King of the Netherlands relative to above  
1831-32 (688) Vol XXXII

**Boundaries of United States and British American Provinces** 611  
Expenses paid for carrying into effect the Capitulation of the Convention at London  
1827 relative to above 1836 (611) Vol XXXIX

**Boundaries of United States and British American Provinces** 118  
Correspondence relative to above and to the Question of Jurisdiction  
within the Disputed Territory 1837-38 [118] Vol XXXIX

**Boundaries of United States and British American Provinces** 257  
Correspondence relative to above with Appendix  
1840 [257] Vol XXXII



## NEW BRUNSWICK.

---

RETURN to an Address to HIS MAJESTY, dated 26 July 1832;—for,

COPY of AWARD of The KING of the *Netherlands* relative to the disputed  
BOUNDARY between *New Brunswick* and the United States of *America*.

---

DECISION of His Majesty the KING of the *Netherlands*, upon the disputed  
Points of BOUNDARY under the Fifth Article of the Treaty of *Ghent*, between  
*Great Britain* and the United States of *America*.

(With Translation.)

---

NOUS, GUILLAUME, par la Grace de Dieu Roi des Pays-Bas, Prince  
d'Orange-Nassau, Grand Duc de Luxembourg, &c. &c. &c.

AYANT accepté les fonctions d'Arbitrateur, qui Nous ont été conférées par la Note  
de l'Ambassadeur Extraordinaire et Plénipotentiaire de la Grande Brétagne, et par  
celle du Chargé d'Affaires des Etats Unis d'Amérique, à Notre Ministre des  
Affaires Etrangères, en date du 12 Janvier 1829, d'après l'Article V. du Traité de  
Gand du 24 Decembre 1814, et l'Article I. de la Convention conclue entre ces  
Puissances à Londres le 29 Septembre 1827, dans le différend qui s'est élevé entre  
Elles au sujet des Limites de leurs Possessions respectives :

Animé du désir sincère de répondre par une décision scrupuleuse et impartiale,  
à la confiance qu'elle Nous ont témoignée, et de leur donner ainsi un nouveau gage  
du haut prix que nous y attachons :

Ayant à cet effet dûment examiné et mûrement pesé le contenu du premier  
Exposé ainsi que de l'Exposé définitif du dit différend, que nous ont respectivement  
remis, le 1 Avril de l'année 1830, l'Ambassadeur Extraordinaire et Plénipotentiaire  
de Sa Majesté Britannique, et l'Envoyé Extraordinaire et Ministre Plénipotentiaire  
des Etats Unis d'Amérique, avec toutes les pièces qui y ont été jointes à l'appui :

Voulant accomplir aujourd'hui les obligations que nous venons de contracter par  
l'acceptation des fonctions d'Arbitrateur dans le susdit différend, en portant à la  
connaissance des Deux Hautes Parties intéressées le résultat de Notre examen et  
Notre opinion sur les trois points dans lesquels se divise de leur commun accord la  
contestation :

Considérant que les trois points précités doivent être jugés d'après les Traités,  
Actes et Conventions conclus entre les Deux Puissances, savoir, le Traité de Paix  
de 1783, le Traité d'Amitié, de Commerce et de Navigation de 1794, la Déclaration  
relative à la Rivière Saint Croix de 1798, le Traité de Paix signé à Gand en 1814,  
la Convention du 29 Septembre 1827, et la Carte de Mitchell, et la Carte (A.)  
citées dans cette Convention :

Déclarons que,—

Quant au premier point, savoir, la question, Quel est l'endroit désigné dans les  
Traités comme l'Angle Nord-Ouest de la Nouvelle Ecosse, et quels sont les  
Highlands séparant les Rivières qui se déchargent dans le Fleuve St. Laurent, de  
celles tombant dans l'Océan Atlantique, le long desquels doit être tirée la Ligne de  
Limites depuis cet Angle jusqu'à la source Nord-ouest de la Rivière Connecticut ?



Considérant,—

Que les Hautes Parties intéressées réclament respectivement cette Ligne de Limites au Midi et au Nord de la Rivière St. John, et ont indiqué chacune sur la Carte (A.) la Ligne qu'elles demandent :

Considérant,—

Que selon les exemples allégués le terme Highlands s'applique non seulement à un pays montueux ou élevé, mais encore à un terrain, qui, sans être montueux, sépare des eaux coulant dans une direction différente, et qu'ainsi le caractère plus ou moins montueux et élevé du pays à travers lequel sont tirées les deux Lignes respectivement réclamées au Nord et au Midi de la Rivière St. John, ne saurait faire la base d'une option entr'elles :

Que le texte du Second Article du Traité de Paix de 1783, reproduit en partie les expressions dont on s'est antérieurement servi dans la Proclamation de 1763, et dans l'Acte de Quebec de 1774, pour indiquer les Limites Méridionales du Gouvernement de Quebec, depuis le Lac Champlain, " in forty-five degrees of North Latitude, " along the Highlands which divide the Rivers that empty themselves into the " River St. Lawrence from those which fall into the sea, and also along the North " coast of the Bay des Chaleurs : "

Qu'en 1763, 1765, 1773 et 1782, il a été établi, que la Nouvelle Ecosse serait bornée au Nord, jusqu'à l'extrémité Occidentale de la Baie des Chaleurs, par la Limite Méridionale de la Province de Quebec ; que cette Délimitation se retrouve pour la Province de Quebec, dans la commission du Gouverneur Général de Quebec de 1786, où l'on a fait usage des termes de la Proclamation de 1763, et de l'Acte de Quebec de 1774 ; et dans les Commissions de 1786 et postérieures des Gouverneurs du Nouveau Brunswick pour cette dernière Province, ainsi que dans un grand nombre de Cartes antérieures et postérieures au Traité de 1783, et que l'Article Première du dit Traité cite nominativement les Etats, dont l'indépendance est reconnue :

Mais que cette mention n'implique point l'entière coincidence des Limites entre les Deux Puissances, réglées par l'Article suivant, avec l'ancienne délimitation des Provinces Anglaises, dont le maintien n'est pas mentionnée dans le Traité de 1783, et qui par ses variations continuelles, et par l'incertitude qui continua d'exister à son égard, provoqua de tems à autre des différends entre les Autorités Provinciales :

Qu'il résulte de la Ligne tirée par le Traité de 1783 à travers les grands Lacs à l'Ouest du Fleuve St. Laurent, une déviation des anciennes Chartes Provinciales en ce qui concerne les Limites :

Qu'on chercherait en vain à s'expliquer pourquoi, si l'on entendait maintenir l'ancienne Délimitation Provinciale, l'on a précisément fait usage dans la négociation de 1783 de la Carte de Mitchell, publiée en 1755, et par conséquent antérieure à la Proclamation de 1763, et à l'Acte de Quebec de 1774 :

Que la Grande Brétagne proposa d'abord la Rivière Piscataqua pour Limite à l'Est des Etats Unis, et ensuite n'accepta pas la proposition de faire fixer plus tard la Limite du Maine, ou de Massachusett's Bay :

Que le Traité de Gand stipula un nouvel Examen sur les lieux le quelne pouvait s'appliquer à une Limite historique ou administrative ; et que dès-lors l'ancienne Délimitation des Provinces Anglaises n'offre pas non plus une base de décision :

Que la Longitude de l'Angle Nord-ouest de la Nouvelle Ecosse, laquelle doit coïncider avec celle de la source de la Rivière St. Croix, fut seulement fixée par la Déclaration de 1798, qui indiqua cette Rivière :

Que le Traité d'Amitié, de Commerce et de Navigation de 1794 mentionne le doute qui s'était élevé à l'égard de la Rivière St. Croix ; et que les premières Instructions du Congrès lors des Négociations, dont résulta le Traité de 1783, placent le dit Angle à la source de la Rivière St. John :

Que la Latitude de cet Angle se trouve sur les bords du St. Laurent, selon la Carte de Mitchell, reconnue pour avoir réglé le travail combiné et officiel des négociateurs du Traité de 1783 ; au lieu, qu'en vertu de la Délimitation du Gouvernement de Quebec, l'on devrait la chercher aux Highlands séparant les Rivières qui se déchargent dans la Rivière St. Laurent, de celles tombant dans la mer :

Que



Que la nature du terrain à l'Est de l'Angle précité n'ayant pas été indiqué dans le Traité de 1783, il ne s'en laisse pas tirer d'argument pour le fixer de préférence dans tel endroit, plutôt que dans un autre :

Qu'au surplus, si l'on croyait devoir le rapprocher de la source de la Rivière St. Croix, et le chercher, par exemple, à Mars Hill, il serait d'autant plus possible que la Limite du Nouveau Brunswick tirée de-là au Nord-est, donnât à cette Province plusieurs Angles Nord-ouest situés davantage au Nord, et à l'Est, selon leur plus grand éloignement de Mars Hill, que le nombre de degrés de l'Angle mentionné dans le Traité a été passé sous silence :

Que par conséquent l'Angle Nord-ouest de la Nouvelle Ecosse, dont il est ici question, ayant été inconnu en 1783, et le Traité de Gand l'ayant encore déclaré non constaté, la mention de cet Angle historique dans le Traité de 1783 doit être considérée comme une pétition de principe, qui ne présente aucune base de décision ; tandis que si on l'envisage comme un point topographique, eût égard à la définition, viz. "that Angle which is formed by a Line drawn due North from the source of the St. Croix River to the Highlands," il forme simplement l'extrémité de la Ligne "along the said Highlands, which divide those Rivers that empty themselves into the River St. Lawrence, from those which fall into the Atlantic Ocean," extrémité que la mention de l'Angle Nord-ouest de la Nouvelle Ecosse ne contribue pas à constater, et qui, étant à trouver elle-même, ne saurait mener à la découverte de la Ligne qu'elle termine :

Enfin, que les argumens tirés des droits de Souveraineté exercés sur le fief de Madawaska, et sur le Madawaska Settlement, admis même que cet exercice fût suffisamment prouvé, ne peuvent point décider la question, par la raison, que ces deux établissemens n'embrassent qu'un terrain partiel de celui en litige ; que les Hautes Parties intéressées ont reconnu le pays situé entre les Lignes respectivement réclamées par elles, comme faisant un objet de contestation, et qu'ainsi la possession ne saurait être censée déroger au droit ; et que si l'on écarte l'ancienne Délimitation des Provinces alléguée en faveur de la Ligne réclamée au Nord de la Rivière St. John, et spécialement celle mentionnée dans la Proclamation de 1763 et dans l'Acte de Quebec de 1774, l'on ne saurait admettre à l'appui de la Ligne demandée au Midi de la Rivière St. John, des argumens tendant à prouver que telle partie du terrain litigieux appartient au Canada ou au Nouveau Brunswick :

Considérant,—

Que la question, depouillée des argumens non décisifs tirés du caractère plus ou moins montueux du terrain de l'ancienne Délimitation des Provinces de l'Angle Nord-ouest de la Nouvelle Ecosse, et de l'état de possession, se réduit en dernière analyse à celles-ci, Quelle est la Ligne tirée droit au Nord depuis la source de la Rivière St. Croix, et quel est le terrain, n'importe qu'il soit montueux et élevé ou non, qui, depuis cette Ligne jusqu'à la source Nord-ouest de la Rivière Connecticut, separe les Rivières se déchargeant dans le Fleuve St. Laurent, de celles qui tombent dans l'Océan Atlantique ; que les Hautes Parties intéressées ne sont d'accord que, sur la circonstance que la Limite à trouver doit être déterminée par une telle Ligne, et par un tel terrain ; qu'elles le sont encore, depuis la Déclaration de 1798, sur la réponse à faire à la première question, à l'exception de la latitude, à laquelle la Ligne tirée droit au Nord de la source de la Rivière St. Croix doit se terminer ; que cette latitude coïncide avec l'extrémité du terrain, qui depuis cette Ligne jusqu'à la source Nord-ouest de la Rivière Connecticut sépare les rivières se déchargeant dans le Fleuve St. Laurent, de celles qui tombent dans l'Océan Atlantique, et que, dès-lors, il ne reste qu'à déterminer ce terrain :

Qu'en se livrant à cette opération, on trouve d'un côté,—

D'abord, que si par l'adoption de la Ligne réclamée au Nord de la Rivière St. John, la Grande Bretagne ne pourrait pas être estimée obtenir un terrain de moindre valeur, que si elle eût accepté en 1783 la Rivière St. John pour frontière, eût égard à la situation du Pays entre les Rivières St. John et St. Croix dans le voisinage de la mer, et à la possession des deux rives de la Rivière St. John dans la dernière partie de son cours, cette compensation serait cependant détruite par l'interruption de la communication entre le Bas Canada et le Nouveau Brunswick, spécialement entre Quebec et Fredericton, et qu'on chercherait vainement quels motifs auraient déterminé la Cour de Londres à consentir à une semblable interruption.



Que si, en second lieu, en opposition aux Rivières se déchargeant dans le Fleuve St. Laurent, on aurait convenablement, d'après le langage usité en géographie, pu comprendre les Rivières tombant dans les Baies de Fundy et des Chaleurs, avec celles se jetant directement dans l'Océan Atlantique, dans la dénomination générique des Rivières tombant dans l'Océan Atlantique, il serait hasardeux de ranger dans l'espèce, parmi cette catégorie, les Rivières St. John et Ristigouche, que la Ligne réclamée au Nord de la Rivière St. John sépare immédiatement des Rivières se déchargeant dans le Fleuve St. Laurent, non pas avec d'autres Rivières coulant dans l'Océan Atlantique, mais seules et d'appliquer ainsi, en interprétant la Délimitation fixée par un Traité, où chaque expression doit compter, à deux cas exclusivement spéciaux, et où il ne s'agit pas du genre, une expression générique qui leur assignerait un sens plus large, ou qui, étendue aux Scondiac Lakes, Penobscott et Kennebec, qui se jettent directement dans l'Océan Atlantique, établirait le principe, que le Traité de 1783 a entendu des Highlands séparant aussi bien médiatement qu'immédiatement les Rivières se déchargeant dans le Fleuve St. Laurent, de celles qui tombent dans l'Océan Atlantique, principe également réalisé par les deux Lignes :

Troisièmement que la Ligne réclamée au Nord de la Rivière St. John ne sépare pas même immédiatement les Rivières se déchargeant dans le Fleuve St. Laurent, des Rivières St. John et Ristigouche, mais seulement des Rivières qui se jettent dans les St. John et Ristigouche, à l'exception de la dernière partie de cette Ligne près des sources de la Rivière St. John ; et qu'ainsi, pour arriver à l'Océan Atlantique, les Rivières séparées par cette Ligne de celles se déchargeant dans le Fleuve St. Laurent, ont chacune besoin de deux intermédiaires, savoir, les unes de la Rivière St. John et de la Baie de Fundy, et les autres de la Rivière Ristigouche et de la Baie des Chaleur :

Et de l'autre,

Qu'on ne peut expliquer suffisamment comment, si les Hautes Parties Contractantes ont entendu établir en 1783 la Limite au Midi de la Rivière St. John, cette Rivière, à laquelle le terrain litigieux doit en grande partie son caractère distinctif, a été neutralisée et mise hors de cause :

Que le verbe "divide" paraît exiger la contiguité des objets qui doivent être "divided" :

Que la dite Limite forme seulement à son extrémité Occidentale la séparation immédiate entre la Rivière Mettjarmette et la source Nord-ouest de Penobscott, et ne sépare que médiatement les Rivières se déchargeant dans le Fleuve St. Laurent, des eaux du Kennebec, du Penobscott et des Scondiac Lakes ; tandis que la Limite réclamée au Nord de la Rivière St. John sépare immédiatement les eaux des Rivières Ristigouche et St. John, et médiatement les Scondiac Lakes, et les eaux des Rivières Penobscott et Kennebec, des Rivières se déchargeant dans le Fleuve St. Laurent, savoir, les Rivières Beaver, Metis, Rimousky, Trois Pistoles, Green, du Loup, Kamouraska, Ouelle, Bras, St. Nicholas, du Sud, la Famine et Chaudière :

Que même en mettant hors de cause les Rivières Ristigouche et St. John, par le motif qu'elles ne pourraient être censées tomber dans l'Océan Atlantique, la Ligne Septentrionale se trouverait encore aussi près des Scondiac Lakes, et des eaux du Penobscott et du Kennebec que la Ligne Méridionale des Rivières Beaver, Metis, Rimousky, et autres, se déchargeant dans le Fleuve St. Laurent, et formerait aussi bien que l'autre une séparation médiate entre celles-ci, et les Rivières tombant dans l'Océan Atlantique :

Que la rencontre antérieure de la Limite Méridionale, lorsque de la source de la Rivière St. Croix on tire une Ligne au Nord, pourrait seulement lui assurer un avantage accessoire sur l'autre, dans le cas où l'une et l'autre Limite réunissent au même degré les qualités exigées par les Traités :

Et que le sort assigné par celui de 1783 au Connecticut, et au St. Laurent même, écarte la supposition, que les Deux Puissances auraient voulu faire tomber la totalité de chaque Rivière, depuis son origine jusqu'à son embouchure, en partage à l'une ou à l'autre :

Considérant,—



Considérant,—

Que d'après ce qui précède les argumens allégués de part et d'autre, et les pièces exhibées à l'appui, ne peuvent être estimés assez prépondérans pour déterminer la préférence en faveur d'une des deux Lignes, respectivement réclamées par les Hautes Parties intéressées, comme Limites de leurs Possessions depuis la source de la Rivière St. Croix, jusqu'à la source Nord-ouest de la Rivière Connecticut; et que la nature du différend, et les stipulations vagues et non suffisamment déterminées du Traité de 1783, n'admettent pas d'adjuger l'une ou l'autre de ces Lignes à l'une des dites Parties, sans blesser les principes du droit et de l'équité envers l'autre:

Considérant,—

Que la question se réduit, comme il a été exprimé ci-dessus, à un choix à faire du terrain séparant les Rivières se déchargeant dans le Fleuve St. Laurent, de celles qui tombent dans l'Océan Atlantique, que les Hautes Parties intéressées se sont entendues à l'égard du cours des eaux, indiqué de commun accord sur la Carte (A.) et présentant le seul élément de décision; et que dès-lors les circonstances dont dépend cette décision, ne sauraient être éclaircies d'avantage, au moyen de nouvelles recherches topographiques, ni par la production de pièces nouvelles:

Nous sommes d'avis,—

Qu'il conviendra d'adopter pour Limite des deux Etats une Ligne tirée droit au Nord depuis la source de la Rivière St. Croix jusqu'au point où elle coupe le milieu du thalweg de la Rivière St. John; de-là le milieu du thalweg de cette Rivière, en la remontant jusqu'au point où la Rivière St. Francis se décharge dans la Rivière St. John; de-là le milieu du thalweg de la Rivière St. Francis, en la remontant jusqu'à la source de sa branche la plus Sud-ouest, laquelle source Nous indiquons sur la Carte (A.) par la lettre (X.) authentiquée par la signature de Notre Ministre des Affaires Etrangères; de-là une ligne tirée droit à l'Ouest jusqu'au point où elle se réunit à la Ligne réclamée par les Etats Unis d'Amérique, et tracée sur la carte (A.); de-là cette Ligne jusqu'au point où, d'après cette Carte, elle coïncide avec celle demandée par la Grande Bretagne; et de-là la ligne indiquée sur la dite Carte par les deux Puissances, jusqu'à la source la plus Nord-ouest de la Rivière Connecticut:

Quant au second point, savoir, la question, Quelle est la Source la plus Nord-ouest (North-westernmost Head) de la Rivière Connecticut?

Considérant,—

Que pour résoudre cette question, il s'agit d'opter entre la Rivière du Connecticut Lake, Perry's Stream, Indian Stream, et Hall's Stream:

Considérant,—

Que d'après l'usage adopté en géographie, la source et le lit d'une Rivière sont indiqués par le nom de la Rivière attaché à cette source et à ce lit, et par leur plus grande importance relative, comparée à celle d'autres eaux, communiquant avec cette Rivière:

Considérant,—

Qu'une Lettre Officielle de 1772 mentionne déjà le nom de Hull's Brook, et que dans une Lettre Officielle postérieure de la même année, du même Inspecteur, on trouve Hall's Brook représenté comme une petite Rivière tombant dans le Connecticut:

Que la Rivière dans laquelle se trouve Connecticut Lake parait plus considérable que Hall's, Indian ou Perry's Stream; que le Connecticut Lake et les deux Lacs situés au Nord de celui-ci semblent lui assigner un plus grand volume d'eau, qu'aux trois autres Rivières; et qu'en l'admettant comme le lit du Connecticut, on prolonge d'avantage ce Fleuve, que si l'on donnait la préférence à une de ces trois autres Rivières:



Enfin que la Carte (A.) ayant été reconnue dans la Convention de 1827 comme indiquant le cours des eaux, l'autorité de cette Carte semble s'étendre également à leur dénomination, vu qu'en cas de contestation tel nom de Rivière, ou de Lac, sur lequel on n'eût pas été d'accord, eût pu avoir été omis, que la dite Carte mentionne Connecticut Lake, et que le nom de Connecticut Lake implique l'application du nom Connecticut à la Rivière qui traverse le dit Lac :

Nous sommes d'avis,—

Que le ruisseau situé le plus au Nord-ouest de ceux qui coulent dans le plus Septentrional des trois Lacs, dont le dernier porte le nom de Connecticut Lake, doit être considéré comme la source la plus Nord-ouest (North-westernmost Head) du Connecticut.

Et quant au troisième point, savoir, la question, Quelle est la Limite à tracer depuis la Rivière Connecticut le long du parallèle du 45<sup>e</sup> degré de Latitude Septentrionale, jusqu'au Fleuve St. Laurent, nommé dans les Traités Iroquois ou Cataraguy ?

Considérant,—

Que les Hautes Parties intéressées diffèrent d'opinion sur la question, de savoir, Si les Traités exigent un nouveau levé de toute la Ligne de Limite depuis la Rivière Connecticut, jusqu'au Fleuve St. Laurent, nommé dans les Traités Iroquois ou Cataraguy, ou bien seulement le complément des anciens levés provinciaux :

Considérant,—

Que le Cinquième Article du Traité de Gand de 1814 ne stipule point qu'on levera telle partie des Limites qui n'aurait pas été levée jusqu'ici, mais déclare, que les Limites n'ont pas été levées, et établit qu'elles le seront :

Qu'en effet ce levé, dans les Rapports entre les Deux Puissances, doit être censé n'avoir pas en lieu depuis le Connecticut jusqu'à la Rivière St. Laurent, nommée dans les Traités Iroquois ou Cataraguy, vu que l'ancien levé s'est trouvé inexact, et avait été ordonné non par les Deux Puissances d'un commun accord, mais par les anciennes autorités provinciales :

Qu'il est d'usage de suivre, en fixant la Latitude, le principe de Latitude observée :

Et que le Gouvernement des Etats Unis d'Amérique a établie certaines Fortifications à l'endroit dit Rouse's Point, dans la persuasion que le terrain faisait partie de leur territoire, persuasion suffisamment légitimée par la Ligne réputée jusqu'alors correspondre avec le 45<sup>e</sup> degré de Latitude Septentrionale :

Nous sommes d'avis,—

Qu'il conviendra de procéder à de nouvelles opérations pour mesurer la Latitude observée, afin de tracer la Limite depuis la Rivière Connecticut, le long du parallèle du 45<sup>e</sup> degré de Latitude Septentrionale, jusqu'au Fleuve St. Laurent, nommé dans les Traités Iroquois ou Cataraguy ; de manière cependant, qu'en tout cas, à l'endroit dit Rouse's Point, le territoire des Etats Unis d'Amérique s'étendra jusqu'au Fort qui s'y trouve établi, et comprendra ce Fort et son rayon kilométrique.

Ainsi fait et donné sous Notre Sceau Royal, à la Haye, ce Dix Janvier, de l'an de Grace Mil Huit Cent Trente-un, et de Notre Regne de Dix-huitième.

(signé) *Guillaume.*

Le Ministre des Affaires Etrangères,

(signé) *Verstolk le Soclen.*



DECISION of His Majesty the KING of the *Netherlands*, upon the disputed Points of BOUNDARY, under the Fifth Article of the Treaty of *Ghent*, between *Great Britain* and the United States of *America*.

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(Translation.)

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WE, WILLIAM, by the Grace of God King of the Netherlands, Prince of Orange-Nassau, Grand Duke of Luxembourg, &c. &c. &c.

Having accepted the functions of Arbitrator, which were conferred upon Us by the Notes addressed to Our Minister for Foreign Affairs by the Ambassador Extraordinary and Plenipotentiary of Great Britain, and by the Chargé d'Affaires of the United States of America, on the 12th of January 1829, according to the Fifth Article of the Treaty of Ghent, of the 24th December 1814, and the First Article of the Convention concluded between those Powers at London on the 29th of September 1827, in the difference which has arisen between them on the subject of the Boundaries of their respective Possessions :

Animated by a sincere desire to make, by a scrupulous and impartial decision, a suitable return for the confidence which they have shown Us, and thus to afford them a new pledge of the high value which We set upon it :

Having for this purpose duly examined and maturely weighed the contents of the first Statement as well as of the definitive Statement of the said difference, which the Ambassador Extraordinary and Plenipotentiary of His Britannic Majesty and the Envoy Extraordinary and Minister Plenipotentiary of the United States of America respectively delivered to Us on the 1st of April of the year 1830, together with all the Documents thereunto annexed in support of the same :

Desiring now to fulfil the obligations which We have contracted, by the acceptance of the functions of Arbitrator in the above-mentioned difference, by communicating to the Two High Parties concerned the result of Our examination, and Our opinion upon the three points into which, by their common agreement, the question in dispute is divided :

Considering that the three points above referred to are to be determined according to the Treaties, Acts and Conventions concluded between the Two Powers, that is to say, the Treaty of Peace of 1783, the Treaty of Amity, Commerce and Navigation of 1794, the Declaration relative to the River St. Croix of 1798, the Treaty of Peace signed at Ghent in 1814, the Convention of the 29th of September 1827, and Mitchell's Map, and the Map (A.) referred to in that Convention :

We Declare,

That with regard to the first point, that is to say, Which is the spot designated in the Treaties as the North-west Angle of Nova Scotia, and which are the Highlands dividing the Rivers that empty themselves into the River St. Lawrence from those falling into the Atlantic Ocean, along which Highlands is to be drawn the Line of Boundary from that Angle to the North-west Head of the Connecticut River :

Considering,—

That the High Parties concerned respectively claim this Line of Boundary, the one to the South and the other to the North of the River St. John, and have each marked upon the Map (A.) the Line which they demand :

Considering,—

That according to the instances which are adduced, the term Highlands is applied not only to a hilly or elevated country, but likewise to a tract of land which, without



out being hilly, divides waters flowing in different directions, and that thus the more or less hilly and elevated character of the country, across which are drawn the two Lines respectively claimed to the North and to the South of the River St. John, could not form the ground of a choice between them :

That the text of the Second Article of the Treaty of Peace of 1783 repeats in part the expressions which were previously employed in the Proclamation of 1763, and in the Quebec Act of 1774, to denote the Southern Limits of the Government of Quebec, commencing from Lake Champlain, "in forty-five degrees of North Latitude along the Highlands, which divide the Rivers that empty themselves into the River St. Lawrence from those which fall into the sea, and also along the North coast of the Bay des Chaleurs :"

That in 1763, 1765, 1773, and 1782, it was laid down, that Nova Scotia should be bounded to the North, as far as the Western extremity of the Bay of Chaleurs, by the Southern Boundary of the Province of Quebec ; that this definition of Boundary is found again for the Province of Quebec in the Commission of the Governor General of Quebec of 1786, in which the terms of the Proclamation of 1763, and of the Quebec Act of 1774, are employed ; and for the Province of New Brunswick, in the Commissions of the Governors of that Province of 1786, and of a later period, as also in a great number of Maps antecedent and subsequent to the Treaty of 1783, and that the First Article of the said Treaty recites by name the States, of which the independence is recognized :

But that this mention thereof does not imply that the Boundaries between the Two Powers, which were settled by the succeeding Article, entirely coincide with the ancient definition of Boundary of the English Provinces, the maintenance of which is not mentioned in the Treaty of 1783, and which, by its continual variations, and by the uncertainty which continued to exist with respect to it, gave rise from time to time to differences between the Provincial Authorities :

That the Line drawn by the Treaty of 1783 across the Great Lakes to the west of the River St. Lawrence, produces a deviation from the ancient Provincial Charters in regard to Boundaries :

That it would be vain to attempt to explain why, if it were intended to maintain the ancient Provincial Boundary, Mitchell's Map, which was published in 1755, and which was therefore antecedent to the Proclamation of 1763, and to the Quebec Act of 1774, should exactly have been chosen for use in the negotiation of 1783 :

That Great Britain, in the first instance, proposed the River Piscataqua for the Eastern Boundary of the United States, and subsequently did not accept the proposition for the postponement of the fixing of the Boundary of Maine, or of Massachusetts's Bay to a later period :

That the Treaty of Ghent stipulated a new Survey on the spot, which could not apply to a Boundary recorded in history, or defined by internal administration ; and that, consequently, neither does the ancient definition of Boundary of the English Provinces offer a ground of decision :

That the Longitude of the North-west Angle of Nova Scotia, which is to coincide with that of the source of the River St. Croix, was only settled by the Declaration of 1798, which designated which was that River :

That the Treaty of Amity, Commerce and Navigation of 1794 mentions the doubt which had arisen with regard to the River St. Croix ; and that the first Instructions of the Congress at the time of the Negotiations which produced the Treaty of 1783, place the said Angle at the source of the River St. John :

That the Latitude of this Angle, according to Mitchell's Map, which is allowed to have directed the joint and official labours of the negotiators of the Treaty of 1783, is to be found on the banks of the St. Lawrence ; whereas, according to the Boundary of the Government of Quebec, it ought to be sought for at the Highlands, dividing the Rivers which empty themselves into the River St. Lawrence from those falling into the sea :

That the nature of the tract of country to the East of the Angle referred to, not having been described in the Treaty of 1783, no argument can thence be drawn for laying it down in one place rather than in another :

That,



That, besides, if it were thought necessary to bring it nearer to the source of the River St. Croix, and to look for it, for instance, at Mars Hill, it would be by so much the more possible that the Boundary of New Brunswick, drawn from thence to the North-east, would give to that Province several North-west Angles, situate more to the North and to the East, according to their greater distance from Mars Hill, since the number of degrees of the Angle mentioned in the Treaty has been passed over in silence :

That, consequently, the North-west Angle of Nova Scotia, which is here in question, having been unknown in 1783, and the Treaty of Ghent having declared it to be still unascertained, the mention of this Angle in the Treaty of 1783, as a known point, is to be considered as an assumption of a fact which does not afford any ground for decision ; whilst, if it be considered as a topographical point, with reference to the definition, viz. “ that Angle which is formed by a Line drawn due North from the source of the St. Croix River to the Highlands,” it merely forms the extreme point of the line “ along the said Highlands, which divide those Rivers which empty themselves into the River St. Lawrence from those which fall into the Atlantic,” an extreme point, which the mention of the North-west Angle of Nova Scotia does not contribute to establish, since that Angle being itself to be found, cannot lead to the discovery of the Line which it terminates :

Finally, that the arguments drawn from the exercise of the rights of Sovereignty over the Fief of Madawaska, and over the Madawaska Settlement, even admitting that exercise to be sufficiently proved, cannot decide the question, because those two establishments comprise only a portion of the territory in dispute ; because the High Parties concerned have recognised the country situate between the Lines respectively claimed by them as constituting an object of controversy ; and because in this view possession cannot be considered as detracting from right ; and because, if the ancient Boundary Line of the Provinces adduced in favour of the Line claimed to the North of the River St. John, and especially that mentioned in the Proclamation of 1763, and in the Quebec Act of 1774, be set aside, there cannot be admitted, in support of the Line claimed to the South of the River St. John, arguments tending to prove that such or such portion of the disputed territory belongs to Canada or to New Brunswick :

Considering,—

That the question, stripped of the inconclusive arguments derived from the more or less hilly character of the tract of country, from the ancient Boundary Line of the Provinces, from the North-west Angle of Nova Scotia, and from the state of possession, is reduced at last to these questions, Which is the Line drawn due North from the source of the River St. Croix, and which is the tract of country, no matter whether it be hilly and elevated or not, which, from that Line to the North-west head of the Connecticut River, divides the Rivers emptying themselves into the River St. Lawrence, from those which fall into the Atlantic Ocean ; that the High Parties concerned are only agreed as to the circumstance that the Boundary to be found is to be settled by some such Line and by some such tract of country ; that they have further agreed, since the Declaration of 1798, as to the answer to be given to the first question, except with regard to the Latitude at which the Line drawn due North from the source of the River St. Croix is to terminate ; that this Latitude coincides with the extremity of the tract of country which, from that Line to the North west Head of the Connecticut River, divides the Rivers emptying themselves into the River St. Lawrence, from those which fall into the Atlantic Ocean, and that, consequently, it only remains to determine which is that tract of country :

That on entering upon this operation, it is found on the one hand,—

First, That if by the adoption of the Line claimed to the North of the River St. John, Great Britain could not be deemed to obtain a tract of country of less value than if she had accepted in 1783 the River St. John for a Boundary, regard being had to the situation of the country between the Rivers St. John and St. Croix in the vicinity of the sea, and to the possession of both banks of the River St. John in the latter part of its course ; that compensation would nevertheless be destroyed by the interruption of the communication between Lower Canada and New Brunswick, especially between Quebec and Fredricton, and that the motives would in vain be sought for which could have determined the Court of London to consent to such an interruption :



That, in the second place, if, according to the language usually employed in geography, the generic term of Rivers falling into the Atlantic Ocean, could with propriety be applied to the Rivers falling into the Bays of Fundy and Chaleurs, as well as to those which discharge themselves directly into the Atlantic Ocean, still it would be hazardous to class under this denomination the Rivers St. John and Ristigouche, which the Line claimed to the North of the River St. John divides immediately from the Rivers discharging themselves into the St. Lawrence, not in company with other Rivers flowing into the Atlantic Ocean, but by themselves alone; and thus in interpreting a definition of Boundary fixed by Treaty, in which every expression ought to be taken into account, to apply to two cases which are exclusively specific, and which there is no question as to genus, a generic expression which would give to them a wider signification, or which, if extended to the Scondiac Lakes, the Penobscott and the Kennebec which discharge themselves directly into the Atlantic Ocean, would establish the principle, that the Treaty of 1783 contemplated Highlands dividing mediately as well as immediately the Rivers discharging themselves into the St. Lawrence, from those which fall into the Atlantic Ocean, a principle equally realized by both Lines :

Thirdly, that the Line claimed to the North of the River St. John does not, except in its latter part, near the sources of the St. John, divide the Rivers that empty themselves into the St. Lawrence, immediately from the Rivers St. John and Ristigouche, but only from the Rivers which fall into the St. John and Ristigouche; and thus, that the Rivers which this Line divides from those discharging themselves into the St. Lawrence, require, all of them, in order to reach the Atlantic Ocean, two intermediate aids—the one set at the River St. John and the Bay of Fundy; the other set, the River Ristigouche and the Bay of Chaleurs :

And, on the other hand,—

That it cannot be sufficiently explained how, if the High Contracting Parties intended in 1783 to establish the Boundary to the South of the River St. John, that River, to which the territory in dispute owes in a great degree its distinguishing character, was neutralized and put out of the question :

That the verb “divide” appears to require contiguity in the objects which are to be “divided :”

That the said Boundary forms only at its Western extremity the immediate division between the River Mettjarmette and the North-west source of the Penobscott, and only divides mediately the Rivers emptying themselves into the River St. Lawrence from the waters of the Kennebec, and of the Penobscott, and from the Scondiac Lakes; whilst the Boundary claimed to the North of the River St. John separates immediately the waters of the Rivers Ristigouche and St. John, and mediately the Scondiac Lakes, and the waters of the Rivers Penobscott and Kennebec, from the Rivers emptying themselves into the River St. Lawrence, that is to say, from the Rivers Beaver, Metis, Rimousky, Trois Pistoles, Green, du Loup, Kamouraska, Ouelle, Bras, St. Nicholas, du Sud, la Famine, and Chaudière :

That even putting the Rivers Ristigouche and St. John out of the question, on the ground that they cannot be considered to fall into the Atlantic Ocean, the North Line would still be found as near to the Scondiac Lakes, and to the waters of the Penobscott and of the Kennebec, as the South Line would be to the Rivers Beaver, Metis, Rimouski, and others, emptying themselves into the River St. Lawrence, and would, as well as the other Line, form a mediate separation between these last-named Rivers, and the Rivers falling into the Atlantic Ocean :

That the circumstance of the Southern Boundary being the first that is met with in drawing a Line North from the source of the River St. Croix, could afford that Boundary an incidental advantage over the other, only in case that both Boundaries should comprise in the same degree the qualities required by the Treaties :

And that the manner in which the Connecticut and even the St. Lawrence are disposed of in the Treaty of 1783, does away with the supposition that the two Powers could have intended that the entire course of each River, from its source to its mouth, should fall to the share of either one or other of them :

Considering,—



Considering,—

That, according to what is premised, the arguments adduced on either side, and the documents offered in their support, cannot be considered sufficiently preponderant to decide the preference in favour of either of the two Lines respectively claimed by the High Parties concerned, as Boundaries of their Possessions, from the source of the River St. Croix to the North-west Head of the Connecticut River; and that the nature of the difference, and the vague and insufficiently defined stipulations of the Treaty of 1783, do not allow the adjudication of one or the other of these Lines to one of the said Parties, without departing from the principles of justice and of equity towards the other :

Considering,—

That the question is reduced, as has been said above, to a choice to be made of a tract of country separating the Rivers discharging themselves into the River St. Lawrence from those which fall into the Atlantic Ocean; that the High Parties concerned have come to an understanding with regard to the water-courses, which are marked by common consent upon the Map (A.), and which offer the only element of decision; and that, consequently, the circumstances on which this decision depends, cannot be further elucidated by means of topographical researches, nor by the production of new documents :

We are of opinion,—

That it will be proper to adopt for the Boundary of the two States a Line drawn due North from the source of the River St. Croix to the point where such Line intersects the middle of the bed (*thalweg*) of the River St. John; thence the middle of the bed of that River, ascending it to the point where the River St. Francis empties itself into the St. John; thence the middle of the bed of the River St. Francis, ascending it to the source of its South-westernmost branch, which source We mark on the Map (A.) by the letter (X.), authenticated by the signature of Our Minister for Foreign Affairs; thence a line drawn due West to the point where it joins the line claimed by the United States of America, and traced on the Map (A.); thence that Line to the point at which, according to that Map, it falls in with that claimed by Great Britain; and thence the Line, marked on the said Map by both the Two Powers, to the North-westernmost head of the Connecticut River :

With regard to the second point, that is to say, Which is the North-westernmost Head of the Connecticut River?

Considering,—

That, in order to solve this question, a choice is to be made between the River of Connecticut Lake, Perry's Stream, Indian Stream, and Hall's Stream :

Considering,—

That according to the practice adopted in geography, the source and the bed of a River are pointed out by the name of the River affixed to that source and to that bed, and by their greater relative importance compared with other waters communicating with that River :

Considering,—

That in an Official Letter, so early as 1772, mention is made of the name of Hall's Brook, and in an Official Letter of a later date in the same year from the same Surveyor, Hall's Brook is described as a little River falling into the Connecticut :

That the River in which Connecticut Lake is found appears to be more considerable than Hall's, Indian, or Perry's Stream; that Connecticut Lake, and the two Lakes situate to the North of the same, appear to give to it a greater volume of water than belongs to the three other Rivers; and that by admitting it to be the bed of the Connecticut, that River is prolonged to a greater extent than if the preference were given to either of the other three Rivers :

Finally, that the Map (A.) having been recognized in the Convention of 1827 as indicating the course of the waters, the authority of that Map appears to extend equally to their names; seeing that in case of dispute, any name of River or Lake

respecting which the Parties had not been agreed, might have been omitted ; that the said Map mentions Connecticut Lake ; and that the name of Connecticut Lake implies the application of the name Connecticut to the River which passes through the said Lake :

We are of opinion,—

That the Rivulet situate farthest to the North-west of those which flow into the most Northern of the three Lakes, of which the last bears the name of Connecticut Lake, is to be considered as the North-westernmost Head of the Connecticut.

And with regard to the third point, that is to say, Which is the Boundary to be traced from the River Connecticut along the parallel of the 45th degree of North Latitude to the River St. Lawrence, called in the Treaties Iroquois or Cataraguy ?

Considering,—

That the High Parties concerned differ in opinion upon the question, Whether the Treaties require a new Survey of the whole Line of Boundary from the River Connecticut to the River St. Lawrence, called in the Treaties, Iroquois or Cataraguy, or only the completion of the ancient provincial surveys :

Considering,—

That the Fifth Article of the Treaty of Ghent of 1814 does not stipulate that such portion of the Boundaries as has not been surveyed already, shall be surveyed, but declares, that the Boundaries have not been surveyed, and determines that they shall be so :

That in fact that survey from the Connecticut to the River St. Lawrence, called in the Treaties, Iroquois or Cataraguy, is to be considered as not having taken place between the Two Powers ; seeing that the ancient survey is found to be inaccurate, and that it had been ordered, not by the Two Powers by common agreement, but by the ancient provincial authorities :

That in fixing a Latitude, it is usual to follow the principle of observed Latitude :

And that the Government of the United States of America has raised certain Fortifications at a spot called Rouse's Point, under the persuasion that the ground formed a portion of their territory, a persuasion sufficiently justified by the Line reputed up to that time to correspond with the parallel of the 45th degree of North Latitude :

We are of opinion,—

That it will be proper to proceed to new operations for the measurement of the observed Latitude, in order to trace the Boundary from the Connecticut River along the parallel of the 45th degree of North Latitude, to the River St. Lawrence, called in the Treaties, Iroquois or Cataraguy ; in such manner, however, as that in any case, at the spot called Rouse's Point, the territory of the United States of America shall extend to the Fort there raised, and shall comprise that Fort, and a circle round it of one kilometer radius (*son rayon kilométrique.*)

Thus done, and given under Our Royal Seal, at the Hague, this Tenth day of January, in the year of our Lord One thousand eight hundred and Thirty-one, and the Eighteenth of Our Reign.

(signed) *Guillaume.*

The Minister for Foreign Affairs,

(signed) *Verstolk de Soelen.*



NEW BRUNSWICK.

---

RETURN to an Address to His Majesty,  
dated 26 July 1832 ;—for,

COPY of AWARD of The KING of the Netherlands  
relative to the disputed BOUNDARY between New  
Brunswick and the United States of America.

(*Mr. Pigott.*)

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*Ordered, by The House of Commons, to be Printed,*  
*3 August 1832.*

---

AMERICAN PROVINCES.

RETURN to an Order of the Honourable The House of Commons,  
dated 9 August 1836;—for,

A RETURN of the EXPENSES paid in each Year for carrying into effect the  
STIPULATIONS of the CONVENTION at *London*, on the 27th September 1827,  
relative to the BOUNDARIES of the United States of *America* and His Majesty's  
*British American* Provinces, under the 5th Article of the Treaty of *Ghent*.

										£.	s.	d.
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Foreign Office, }  
12 August 1836. }

J. Backhouse.



AMERICAN PROVINCES.

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A RETURN of the EXPENSES paid for carrying into effect the STIPULATIONS of the CONVENTION at *London*, on the 27th September 1827, relative to the Boundaries of the United States and the *British American* Provinces.

(*Mr. Hume.*)

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*Ordered, by The House of Commons, to be Printed,  
19 August 1836.*

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# NORTH AMERICAN BOUNDARY.

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## A.

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C O R R E S P O N D E N C E

RELATING TO THE

BOUNDARY

BETWEEN THE

BRITISH POSSESSIONS IN NORTH AMERICA

AND THE

UNITED STATES OF AMERICA,

UNDER THE

TREATY OF 1783.

---

SUBSEQUENTLY TO THE REFERENCE TO ARBITRATION OF THE DISPUTED POINTS  
OF BOUNDARY, UNDER THE CONVENTION OF THE 29<sup>TH</sup> SEPTEMBER, 1827,  
AND THE FIFTH ARTICLE OF THE TREATY OF GHENT.

---

WITH AN APPENDIX.

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*Presented to both Houses of Parliament by Command of Her Majesty,*  
1838.

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LONDON:

PRINTED BY J. HARRISON AND SON.



TABLE OF CONTENTS.

A.

	Page	to Page.
CORRESPONDENCE between the British Government and the Government of the United States, relating to the settlement of the Line of Boundary ; from the year 1831 to the year 1838 .....	1	160

APPENDIX.	Page
I. Treaty of 1783 .....	1
II. Article V. of the Treaty of Ghent, 1814 .....	4
III. Convention of Arbitration, 1827 .....	4
IV. Decision of the King of the Netherlands on the points referred to his arbitration. .	7
V. Map.	

## LIST OF PAPERS.

No.		1831
1.	Viscount Palmerston to the Right Hon. C. R. Vaughan . . . . . Foreign Office, February 9. Inclosure.—W. P. Preble, Esq. to the Baron Verstolk de Soelen.	1
	The Hague, January 12.	1
2.	The Right Hon. C. R. Vaughan to Viscount Palmerston. . . . .	Washington, March 12. 3
3.	The Right Hon. C. R. Vaughan to Viscount Palmerston. . . . .	Washington, March 20. 4
4.	The Right Hon. C. R. Vaughan to Viscount Palmerston. . . . .	Washington, April 12. 4
5.	The Right Hon. C. R. Vaughan to Viscount Palmerston. . . . .	Washington, April 20. 5
6.	Charles Bankhead, Esq. to Viscount Palmerston. . . . .	Washington, July 21. 6
7.	Charles Bankhead, Esq. to Viscount Palmerston. . . . .	New York, August 23. 6
8.	Viscount Palmerston to Charles Bankhead, Esq. . . . .	Foreign Office, October 14. 7
9.	Viscount Palmerston to Charles Bankhead, Esq. . . . .	Foreign Office, October 14. 9
10.	Charles Bankhead, Esq. to Viscount Palmerston. . . . .	Washington, December 6. 9
	Inclosure.—Extract from the Message of the President . . . . .	9
11.	Charles Bankhead, Esq. to Viscount Palmerston. . . . .	Washington, December 20. 10
1832.		
12.	Charles Bankhead, Esq. to Viscount Palmerston. . . . .	Washington, Feb. 12. 10
13.	Charles Bankhead, Esq. to Viscount Palmerston. . . . .	Washington, March 29. 10
14.	Charles Bankhead, Esq. to Viscount Palmerston. . . . .	Washington, June 13. 11
15.	Charles Bankhead, Esq. to Viscount Palmerston. . . . .	Washington, July 13. 11
16.	Charles Bankhead, Esq. to Viscount Palmerston. . . . .	Washington, July 21. 12
	Inclosure.—The Hon. Edward Livingston to Charles Bankhead, Esq.	
	Washington, July 21.	12
17.	Charles Bankhead, Esq. to Viscount Palmerston. . . . .	Washington, July 28. 14
18.	A. Vail, Esq. to Viscount Palmerston. . . . .	Regent Street, August 20. 15
19.	Viscount Palmerston to A. Vail, Esq. . . . .	Foreign Office, August 27. 15
20.	Charles Bankhead, Esq. to Viscount Palmerston. . . . .	Washington, Dec. 5. 15
	Inclosure.—Extract from the Message of the President . . . . .	15
1833.		
21.	Viscount Palmerston to Sir C. R. Vaughan. . . . .	Foreign Office, Feb. 25. 16
22.	A. Vail, Esq. to Viscount Palmerston. . . . .	Regent Street, April 3. 18
23.	Sir C. R. Vaughan to Viscount Palmerston. . . . .	Washington, April 13. 19
24.	Sir C. R. Vaughan to Viscount Palmerston. . . . .	Washington, May 13. 19
	Inclosure 1.—Sir C. R. Vaughan to the Hon. Edward Livingston.	
	Washington, April 14.	21
	2.—The Hon. Edward Livingston to Sir C. R. Vaughan.	
	Washington, April 30.	23
	3.—Sir C. R. Vaughan to the Hon. Edward Livingston.	
	Washington, May 11.	24
25.	Sir C. R. Vaughan to Viscount Palmerston. . . . .	Washington, June 4. 26
	Inclosure 1.—The Hon. Edward Livingston to Sir C. R. Vaughan.	
	Washington, May 28.	28
	2.—Sir C. R. Vaughan to the Hon. Louis McLane.	Washington, May 31. 29
26.	Sir C. R. Vaughan to Viscount Palmerston. . . . .	Washington, June 12. 31
	Inclosure 1.—The Hon. Louis McLane to Sir C. R. Vaughan.	
	Washington, June 5.	32
	2.—Sir C. R. Vaughan to the Hon. Louis McLane.	Washington, June 6. 33
27.	Sir C. R. Vaughan to Viscount Palmerston. . . . .	Washington, June 20. 34
28.	Sir C. R. Vaughan to Viscount Palmerston. . . . .	Washington, July 4. 35
29.	Sir C. R. Vaughan to Viscount Palmerston. . . . .	Washington, Nov. 12. 36
30.	Sir C. R. Vaughan to Viscount Palmerston. . . . .	Washington, Dec. 4. 37
	Inclosure.—Extract from the Message of the President. . . . .	37
31.	Viscount Palmerston to Sir C. R. Vaughan. . . . .	Foreign Office, Dec. 21. 37
32.	Viscount Palmerston to Sir C. R. Vaughan. . . . .	Foreign Office, Dec. 21. 40
1834.		
33.	Sir C. R. Vaughan to Viscount Palmerston. . . . .	Washington, Feb. 12. 41
34.	Sir C. R. Vaughan to Viscount Palmerston. . . . .	Washington, March 12. 42
	Inclosure.—The Hon. Louis McLane to Sir C. R. Vaughan.	Washington, March 11. 43
35.	Sir C. R. Vaughan to Viscount Palmerston. . . . .	Washington, March 20. 48
	Inclosure.—Sir C. R. Vaughan to the Hon. Louis McLane.	Washington, March 16. 48



	1834.	
36. Sir C. R. Vaughan to Viscount Palmerston .....	Washington, March 28.	51
Inclosure 1.—The Hon. Louis McLane to Sir C. R. Vaughan, Washington, March 21.		52
2.—Sir C. R. Vaughan to the Hon. Louis McLane, Washington, March 24.		56
37. Sir C. R. Vaughan to Viscount Palmerston .....	Washington, June 12.	57
38. Viscount Palmerston to Sir C. R. Vaughan .....	Foreign Office, Oct. 30.	58
39. Sir C. R. Vaughan to Viscount Palmerston .....	Washington, Nov. 12.	61
40. Sir C. R. Vaughan to Viscount Palmerston .....	Washington, Nov. 27.	62
Inclosure.—Summary of the Proceedings for settling the North Eastern Boundary of the United States, with Observations upon the present state of that Question with the American Government .....		62
41. Sir C. R. Vaughan to Viscount Palmerston .....	Washington, Dec. 2.	72
Inclosure.—Extract from the Message of the President .....		72
42. Sir C. R. Vaughan to Viscount Palmerston .....	Washington, Dec. 12.	73
	1835.	
43. Sir C. R. Vaughan to the Duke of Wellington.....	Washington, Jan. 12.	73
Inclosure.—Answer of the President to the Resolution of Congress .....		75
44. Sir C. R. Vaughan to the Duke of Wellington .....	Washington, April 20.	76
45. Sir C. R. Vaughan to the Duke of Wellington .....	Washington, May 4.	77
Inclosure 1. The Hon. J. Forsyth to Sir C. R. Vaughan....	Washington, April 28.	78
2. Sir C. R. Vaughan to the Hon. J. Forsyth ....	Washington, May 4.	84
46. Viscount Palmerston to Charles Bankhead, Esq. ....	Foreign Office, Oct. 30.	85
47. Charles Bankhead, Esq. to Viscount Palmerston .....	Washington, Dec. 8.	88
Inclosure.—Extract from the Message of the President .....		88
48. Charles Bankhead, Esq. to Viscount Palmerston .....	Washington, Dec. 29.	89
	1836.	
49. Charles Bankhead, Esq. to Viscount Palmerston .....	Washington, March 5.	89
Inclosure 1.—The Hon. J. Forsyth to Charles Bankhead, Esq. Washington, Feb. 29.		90
2.—Charles Bankhead, Esq. to the Hon. J. Forsyth Washington, March 4.		92
3.—The Hon. J. Forsyth to Charles Bankhead, Esq. Washington, March 5.		93
50. H. S. Fox, Esq. to Viscount Palmerston .....	Washington, July 14.	93
51. H. S. Fox, Esq. to Viscount Palmerston ....	Washington, Dec. 6.	94
Inclosure.—Extract from the Message of the President.....		94
	1837.	
52. H. S. Fox, Esq. to Viscount Palmerston .....	Washington, March 29.	94
Inclosure.—The Hon. J. Forsyth to H. S. Fox, Esq. ....	Washington, March 23.	95
53. Viscount Palmerston to H. S. Fox, Esq. ....	Foreign Office, Nov. 19.	95
54. Viscount Palmerston to H. S. Fox, Esq. ....	Foreign Office, Nov. 19.	98
55. H. S. Fox, Esq. to Viscount Palmerston .....	Washington, Dec. 5.	99
Inclosure —Extract from the Message of the President .....		99
	1838.	
56. H. S. Fox, Esq. to Viscount Palmerston .....	Washington, Jan. 10.	100

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LIST OF PAPERS IN THE APPENDIX.

	Page.
I. Treaty of 1783 .....	1
II. Article V. of the Treaty of Ghent, 1814 .....	4
III. Convention of Arbitration, 1827.....	4
IV. Decision of the King of the Netherlands on the points referred to his Arbitration ..	7
V. Map.	

# CORRESPONDENCE

RELATING TO THE

## NORTH AMERICAN BOUNDARY,

*Subsequently to the Reference to Arbitration, of the Disputed Points of Boundary, under the Convention of the 29th September, 1827, and the Fifth Article of the Treaty of Ghent.*

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No. 1.

*Viscount Palmerston to the Right Hon. C. R. Vaughan.*

Sir,

*Foreign Office, February 9, 1831.*

I HAVE now to transmit to you a copy of the decision\* which His Majesty the King of the Netherlands has communicated in duplicate to the Representatives of Great Britain and the United States at the Hague, upon the question of disputed boundary submitted by the two Governments to His Netherland Majesty's arbitration.

I am compelled by the pressure of other business to delay, until a future opportunity, whatever observations I may have to make to you upon the terms of this decision, against which, you will perceive by the enclosed copy of a paper communicated by the American Envoy at the Hague, to His Majesty's Ambassador at that Court, Mr. Preble has thought fit to protest in the name of his Government.

I can only acquaint you by this opportunity, that whatever might be the sentiments or wishes of His Majesty upon some of the points embraced in the decision of His Netherland Majesty, His Majesty has not hesitated to acquiesce in that decision, in fulfilment of the obligations which His Majesty considers himself to have contracted by the terms of the Convention of Arbitration of the 29th September, 1827; and His Majesty is persuaded that such will be the course adopted by the Government of the United States.

If, however, contrary to this expectation, the American Government should determine upon taking any step of the nature of that which has been adopted by Mr. Preble, and should make to you any communication to that effect, before you shall have received any farther instructions from me on that point, you will inform the American Minister, that you are not prepared to enter into any discussion upon such a subject, and that you can only transmit the communication to your Government for its consideration.

I am, &c.,

*Right Hon. C. R. Vaughan,*  
&c.      &c.      &c.

(Signed)

PALMERSTON.

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Inclosure in No. 1.

*W. P. Preble, Esq. to the Baron Verstolk de Soelen.*

*The Hague, January 12, 1831.*

THE Undersigned, &c. &c., had the honor to receive from the hands of His Majesty, the King of the Netherlands, on the 10th instant, a document pur-

\* Appendix page 7



porting to be an expression of his opinion on the several points submitted to him as Arbiter, relative to certain portions of the boundary of the United States. In a period of much difficulty, His Majesty has had the goodness, for the purpose of conciliating conflicting claims and pretensions, to devote to the high parties interested, a time that must have been precious to himself and people. It is with extreme regret therefore, that the undersigned, in order to prevent all misconceptions, and to vindicate the rights of his Government, feels himself compelled to call the attention of His Excellency, the Baron Verstolk de Soelen, His Majesty's Minister of Foreign Affairs, again to the subject. But while on the one hand, in adverting to certain views and considerations, which seem in some manner, perhaps, to have escaped observation, the undersigned will deem it necessary to do so with simplicity and frankness, he could not on the other be wanting in the expressions of a most respectful deference for His Majesty, the Arbiter.

The language of the Treaty, which has given rise to the contestation between the United States and Great Britain, is, " And that all disputes which might arise in future on the subject of the boundaries of the said United States may be prevented, it is hereby agreed and declared, that the following are and shall be their boundaries, viz. : from the north-west angle of Nova Scotia, viz. : that angle which is formed by a line drawn due north from the source of the St. Croix River to the highlands, along the said highlands which divide those rivers that empty themselves into the River St. Lawrence, from those which fall into the Atlantic Ocean, to the north-westernmost head of Connecticut River; thence down along the middle of that river to the forty-fifth degree of north latitude; from thence, by a line due west on said latitude, until it strikes the river Iroquois or Cataraguy; East, by a line to be drawn along the middle of the river St. Croix from its mouth in the Bay of Fundy to its source; and from its source directly north to the aforesaid highlands which divide the rivers that fall into the Atlantic Ocean from those which fall into the river St. Lawrence."

The manner of carrying this apparently exceedingly definite and lucid description of boundary into effect, by running the line as described, and making the same on the surface of the earth, was the subject, the sole exclusive subject, submitted by the Convention of September, 1827, in pursuance of the Treaty of Ghent, 1814, to an arbiter. If, on investigation, that arbiter found the language of the Treaty, in his opinion, inapplicable to, and wholly inconsistent with, the topography of the country, so that the Treaty of 1783, in regard to its description of boundary, could not be executed according to its own express stipulations, no authority whatever was conferred upon him to determine or consider what practicable boundary line should, in such case, be substituted and established. Such a question of boundary, as is here supposed, the United States would, it is believed, submit to the definitive decision of no Sovereign. And, in the case submitted to His Majesty the King of the Netherlands, the United States, in forbearing to delegate any such power, were not influenced by any want of respect for that distinguished Monarch. They have, on the contrary, given him the highest and most signal proofs of their consideration and confidence. In the present case especially, as any revision or substitution of boundary whatever had been steadily, and in a spirit of unalterable determination, resisted at Ghent, and at Washington, they had not anticipated the possibility of there being any occasion for delegating such powers.

Among the questions to which the language of the Treaty of 1783, already quoted, gave rise between the high parties interested, is the following, viz. : where, at a point due north from the source of the river St. Croix, are " the highlands " which divide the rivers that empty themselves into the river St. Lawrence from those that fall into the Atlantic Ocean, at which same point on said highlands was also to be found the north-west angle of the long established, well known, and distinctly defined British province of Nova Scotia.

On the southern border of the river St. Lawrence, and at the average distance from it of less than thirty English miles, there is an elevated range or continuation of broken high land, extending from Cape Rosières south-westerly to the sources of Connecticut River, forming the southern border of the basin of the St. Lawrence, and the *ligne des versants* of the rivers emptying into it. The same highlands form also the *ligne des versants* on the north of the river Ristigouche, emptying itself into the Bay des Chaleurs, the river St. John with

its northerly and westerly branches emptying into the Bay of Fundy, the river Penobscot with its north-westerly branches emptying into the Bay of Penobscot, the river Kennebec and Androscoggin, whose united waters empty into the Bay of Sagadahock, and the river Connecticut emptying into the bay, usually called Long Island Sound. These bays are all open arms of the sea, or Atlantic Ocean, are designated by their names on Mitchell's map, and, with the single exception of Sagadahock, are all equally well known and usually designated by their appropriate names. This ligne des versants constitutes the highlands of the Treaty, as claimed by the United States.

There is another ligne des versants, which Great Britain claims as the highlands of the Treaty. It is the dividing ridge that bounds the southern side of the basin of the river St. John, and divides the streams that flow into the river St. John from those which flow into the Penobscot and St. Croix. No river flows from this dividing ridge into the river St. Lawrence. On the contrary, nearly the whole of the basins of the St. John and Ristigouche intervene. The source of the St. Croix also is in this very ligne des versants, and less than an English mile distant from the source of a tributary stream of the St. John. This proximity, reducing the due north line of the Treaty as it were to a point, compelled the provincial agents of the British Government to extend the due north line over this dividing ridge into the basin of the St. John, crossing its tributary streams to the distance of about forty miles from the source of the St. Croix, to the vicinity of an isolated hill, between two tributary streams of the St. John. Connecting that isolated hill with the ligne des versants, as just described, by passing between said tributary streams, they claimed it as constituting the highlands of the Treaty.

These two ranges of highlands, as thus described, the one contended for by the United States, and the other by Great Britain, His Majesty, the Arbiter, regards as comporting equally well in all respects with the language of the Treaty. It is not the intention of the Undersigned in this place to question in the slightest degree the correctness of His Majesty's conclusion. But when the Arbiter proceeds to say that it would be suitable to run the line due north from the source of the River St. Croix, not "to the highlands which divide the " rivers that fall into the Atlantic Ocean from those which fall into the River St. " Lawrence," but to the centre of the River St. John, thence to pass up the said river, to the mouth of the River St. Francis, thence up the River St. Francis to the source of its south-westernmost branch, and from thence by a line drawn west into the point, where it intersects the line of the highlands as claimed by the United States, and only from thence to pass "along said highlands which " divide the rivers that fall into the Atlantic Ocean, from those which fall into " the River St. Lawrence, to the north-westernmost head of Connecticut River," thus abandoning altogether the boundaries of the Treaty, and substituting for them a distinct and different line of demarcation, it becomes the duty of the undersigned, with the most perfect respect for the friendly views of the Arbiter, to enter a protest against the proceeding, as constituting a departure from the power delegated by the High Parties interested, in order that the rights and interests of the United States may not be supposed to be committed by any presumed acquiescence on the part of their Representative near His Majesty the King of the Netherlands.

The Undersigned, &c.

Baron Verstolk de Soelen,  
&c. &c. &c.

(Signed)

W. P. PREBLE.

## No. 2.

*Right Hon. C. R. Vaughan to Viscount Palmerston.—(Received April 15.)*

My Lord,

*Washington, March 12, 1831.*

IT has been long known at Washington, that His Majesty the King of the Netherlands delivered, on the 10th January, to Mr. Preble the Minister from the United States, his decision upon the question of boundary referred to arbitration.

I am assured, however, by Mr. Van Buren, that this Government has not yet received the official communication of His Majesty's decision; though it appears that some communication of the import of it has been made by Mr.



Preble to the State of Maine, to which he belongs, as it is stated in the newspapers that the Legislature of that State, immediately took it into consideration in a secret Session ; and, it is reported, that great dissatisfaction was expressed with the decision of the Arbiter.

I have the honour to be, &c.,  
(Signed) C. R. VAUGHAN.

Viscount Palmerston,  
    &c.   &c.   &c.

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#### No. 3.

*Right Hon. C. R. Vaughan to Viscount Palmerston.—(Received May 2.)*  
(Extract.) *Washington, March 20, 1831.*

THE decision of the King of the Netherlands upon the question of boundary submitted to His Majesty's Arbitration, was received by way of Havre, by the Government of the United States on the 15th instant.

On the 18th instant a messenger was despatched with an official communication of it to the Government of the State of Maine.

I understand from Mr. Van Buren that the award of the King of the Netherlands has called forth a protest against it from Mr. Preble, the American Minister at the Hague, which I have not seen, but I understand that a copy of it was delivered to Sir Charles Bagot, and, I presume, therefore, that His Majesty's Government is already in possession of it.

This Government has resolved to abstain from any expression of an opinion, until they are in possession of the answer to their official communication of the award to the State of Maine.

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#### No. 4.

*Right Hon. C. R. Vaughan to Viscount Palmerston.—(Received May 23.)*  
(Extract.) *Washington, April 12, 1831.*

WE are at length in possession of the manner in which the Governor and Legislature of Maine have received the award of the King of the Netherlands, as, on the 5th instant, a newspaper published at Portland, the seat of Government of that State, commenced the publication of documents which had been officially communicated by the President, when the award of the King of the Netherlands was transmitted to the Governor.

The first part only of these documents published in Maine has yet reached Washington, and I have the honour to enclose a copy\* extracted from a newspaper.

They consist of a message from the Governor of Maine to the legislature, submitting to the consideration of the Senate and the House of Representatives, a despatch from the Secretary of State of the United States, with copies of the award of the King of the Netherlands. These documents are to be followed by a publication of the protest of Mr. Preble, of the correspondence of the latter with Sir Charles Bagot, and an account of the proceedings of the legislature.

Mr. Van Buren expresses the desire of the President, that while the matter was under deliberation, no steps should be taken by the State of Maine with regard to the disputed territory, which might be calculated to interrupt or embarrass the action of the Executive Government.

I observe in Mr. Van Buren's despatch, the Governor of Maine is informed that Mr. Preble has asked for leave of absence from his mission to the Netherlands, in order that he may return to the United States, and be further heard upon the subject of the award of the King, before any measures in regard to it are adopted by the President. The immediate compliance on the part of the Government with Mr. Preble's request, indicates that no measures will be taken by the Government until Mr. Preble shall arrive.

I have endeavoured to procure from the Secretary of State a copy of the proceedings of the legislature of Maine, which will, in time, appear in the

\* See Class B, page 2.

newspapers; but the Government has not yet received any account of them.

According to the newspaper of Maine, the result of those proceedings was a decision of the legislature, that the arbitration of the King of the Netherlands was not binding on the United States, because His Majesty had not given a *decision*, but his *advice* only as to certain disputed points.

I hope to be able to transmit to your Lordship by the next packet, the remainder of the documents expected from Maine.

No. 5.

*Right Hon. C. R. Vaughan to Viscount Palmerston.—(Received June 2.)*

(Extract.)

*Washington, April 20, 1831.*

I HAVE the honour to acknowledge the receipt, yesterday, by way of Halifax and Boston, of your Lordship's despatch, dated the 9th of February, containing a copy of the decision of His Majesty, the King of the Netherlands, upon the question of boundary submitted to his arbitration, together with a copy of the protest which the American Minister at the Hague thought fit to make, in the name of his Government.

With respect to Mr. Preble's protest, when the Secretary of State communicated it to the Governor of Maine, he expressly stated that it had been made by Mr. Preble without instructions from his Government. I am well pleased to learn from your Lordship, that His Majesty has not hesitated to acquiesce in the decision of the King of the Netherlands, in fulfilment of the obligations which His Majesty considers himself to have contracted by the terms of the Convention of Arbitration of the 29th September, 1827. I regret that it is not yet in my power to state to His Majesty's Government what will be the course adopted by the Government of the United States. The strictest reserve is manifested respecting the opinion of the Government.

In my despatch of April 12, I forwarded to your Lordship the commencement of the documents which have been published in the newspapers of Maine. The report which has since been made by the legislature of Maine, after having taken into consideration the decision of the King of the Netherlands, and other papers which had been transmitted to the Governor by the President, begins by referring to former discussions and correspondence between the general Government and the State of Maine, and particularly to a protest made by the State of Maine in 1827, against the general Government assuming a right under the Constitution to cede or transfer any portion of the territory of any State; and the general Government is reminded, that the State of Maine had already declared their views of the Convention of 1827, the authority of which they never admitted; and that they should not consider themselves bound by any decision under it.

The report then observes that, instead of deciding the points of difference between the two Governments according to the terms of the Vth Article of the Treaty of Ghent, the King of the Netherlands has suggested only a mode by which the controversy between the two parties may be decided, and the United States cannot be bound to adopt the advice which was not asked, and which was given under circumstances which must have induced the arbitrator to favour the pretensions of Great Britain. The report ends with declaring that the United States must not adopt the decision, or, if they do, it will be a violation of the constitutional rights of the State of Maine.

I infer, from the readiness with which a leave of absence was granted to Mr. Preble, that no measures will be adopted by the President respecting the decision of the King of the Netherlands, until Mr. Preble has been farther heard upon the subject, according to his earnest request.

I shall be prepared, should the American Government make any communication to me of the nature of Mr. Preble's protest, to conform strictly with the instructions of your Lordship, and transmit their communication to His Majesty's Government for consideration.



## No. 6.

*Charles Bankhead, Esq. to Viscount Palmerston.—(Received August 22.)*

(Extract.)

*Washington, July 21, 1831.*

I HAVE the honour to acquaint your Lordship that Mr. Preble, Minister from the United States to the Netherlands, arrived at New York some days ago.

Mr. Vaughan informed your Lordship, in his despatch of the 12th of April, that Mr. Preble had obtained leave of absence for the purpose of explaining to his Government the reasons which induced him to protest against the decision of the King of the Netherlands upon the subject of the disputed territory. The same reserve which was manifested upon that question by Mr. Van Buren towards His Majesty's Minister, has been continued to me on the part of the present Secretary of State, Mr. Livingston. I was, however, informed by that gentleman, some days ago, that a reference would be had to the State of Maine before any determination could be taken by the general Government; and, in corroboration of this remark, I find that Mr. Preble, instead of proceeding direct to Washington, has left New York for Maine, for the purpose, I presume, of collecting the sentiments of the authorities of that State upon the question at issue.

No opinion on the part of the United States can be expected before the autumn; but I am not altogether without hopes, that the pretensions of the State of Maine, as put forth in the resolutions of their legislature, will be much softened, and that an acquiescence will, at last, be given to the opinion of the Royal Arbitrator.

Mr. Van Buren, it is understood, will leave this country for England shortly after the arrival of Mr. McLane, who is expected in the course of next month. The *Potomac* frigate, which is to convey Mr. Van Buren, is lying in readiness at New York.

## No. 7.

*Charles Bankhead, Esq. to Viscount Palmerston.—(Received September 22.)*

(Extract.)

*New York, August 23, 1831.*

SINCE I had the honour of addressing your Lordship in my despatch of July 21, Mr. Preble, late Minister of the United States at the Hague, arrived at Washington; and whatever were the sentiments and wishes of the State of Maine, in relation to the disputed territory, they were, I presume, at that time communicated to the President and Secretary of State.

I learn from Mr. Livingston that Mr. Van Buren has been instructed to make some communications to His Majesty's Government upon the subject of the decision of the King of the Netherlands, but of the exact nature of them he did not acquaint me. Mr. Livingston seemed to be ignorant of the determination of the British Government, with reference to that decision, *officially* expressed, and Mr. Van Buren, I believe, is directed to ask, *officially*, the views of the British Government upon this subject.

I learn from an authority which I have no reason to doubt, that before the President can consent to the provisions contained in the royal award, it will be necessary to receive the approbation of the Senate, as the President has no power of himself to alienate any part of the territory of an individual State. This is the language of the persons most conversant with the feelings of the State of Maine, and it coincides with the communication made to me by Mr. Livingston, that the decision of this Government cannot be expected before the meeting of Congress.

Any other measure which may be taken between the two Governments, of the nature of a Convention, would be equally subject to the approval of the Senate of the United States.

No. 8.

*Viscount Palmerston to Charles Bankhead, Esq.*

Sir,

*Foreign Office, October 14, 1831.*

WITH reference to my despatch of February 9, of this year, to Mr. Vaughan, on the subject of the award of His Majesty, the King of the Netherlands, upon the question of the disputed boundary, submitted by Great Britain and the United States of America, to the arbitration of that Sovereign, I am commanded by the King to instruct you to address a note to the American Secretary of State to the following effect.

Mr. Livingston is doubtless aware that his predecessor in office was informed, verbally, by Mr. Vaughan, that the King, our Master, upon the receipt of the instrument by which the award of the King of the Netherlands was communicated to the British Government, had considered himself bound, in fulfilment of the obligations which he had contracted by the terms of the Convention of arbitration of the 29th September 1827, to express to His Netherland Majesty, His Majesty's assent to that award.

It appears to His Majesty's Government, that the time is now arrived, when a final understanding between the British and American Governments, on the subject of that award, and on the measures necessary to be taken for carrying it into effect, ought no longer to be delayed : and I am accordingly to direct that, in making to the American Secretary of State, the present more formal communication of the assent of His Majesty, to the decision of His Netherland Majesty, you enquire of Mr. Livingston whether his Government are now ready to proceed, conjointly with that of Great Britain, to the nomination of Commissioners for marking out the boundary between the possessions of His Majesty in North America, and those of the United States, agreeably to his Netherland Majesty's award.

His Majesty's Government are not ignorant that the Minister of the United States of America residing at the Hague, immediately upon the receipt of the award of His Netherland Majesty, protested against that award, on the ground that the arbitrator had therein exceeded the powers conferred upon him by the parties to the arbitration. But that protest was avowedly made without instructions from Washington, and His Majesty is persuaded that the Government of the United States, influenced, like His Majesty, by a sincere determination to give a fair and full effect to the spirit and intention of their engagements, no less than by an anxious desire to settle this long pending difference between the two Governments, in the only way which the experience of so many years has shewn to be practicable, will not hesitate to accept the award of His Netherland Majesty.

In deciding to give his own assent to this award, for the reasons above stated, His Majesty was not insensible to the sacrifice which he was thus making of a most important portion of those claims, of the justice of which in their full extent His Majesty continues to be, as he has always been, entirely satisfied.

It was impossible for His Majesty to see without deep regret, that, on one branch of the British claims, the award deprived the British Crown of a large tract of country, to which it had long been held to be entitled, while on another branch of the claims, that award, at the same time that it pronounced in favour of the principle of demarcation for which Great Britain contended, introduced a special modification of that principle for the convenience and advantage of the United States, without offering to Great Britain, any compensation for the loss thus occasioned to her.

But these were not considerations by which His Majesty thought himself at liberty to be influenced, in deciding the question of his acceptance or rejection of the decision of His Netherland Majesty. In whatever degree His Majesty's wishes or expectations may have been disappointed by that decision, His Majesty did not hesitate to act upon the stipulation contained in the VIIth Article of the Convention of Arbitration, that "the decision of the arbiter when given, shall be taken to be final and conclusive;" and His Majesty fulfilled this duty with the greater cheerfulness, from the confident hope that in thus completing the engagement which he had contracted, he was finally setting at rest a dispute which had been so long and so hopelessly agitated, between the two Governments, to the interruption of that perfect agreement and harmony on all points, which



it is His Majesty's sincere desire to see permanently established between Great Britain and the United States of America.

His Majesty would indeed be deeply grieved, if he could suppose that the Government of the United States could hesitate to adopt the same course which His Majesty has pursued on this occasion. For what other prospect of an adjustment of this long pending difference would then remain? Commissioners since the Treaty of 1783, have found it impossible to reconcile the description of the boundary contained in that Treaty, with the real features of the country ascertained by actual survey; and the hopelessness of establishing absolutely, in favour of either party, the point which has thus, since the year 1783, been the subject of controversy between them, has now received a new confirmation by the solemn decision of an arbitrator, chosen by both parties, who has pronounced it to be incapable of being established in accordance with the terms of the original Treaty, that Treaty having been drawn up in ignorance of the real features of the country, which it professed to describe.

Seeing that there cannot be a settlement of the claims of either party in strict accordance with the Treaty of 1783, what course would remain, even if the choice were now to be made, but that which was agreed upon by the negotiators of the Treaty of Ghent; viz<sup>t</sup>. the adjustment of the differences between the two Governments by means of an arbitrator? And how unreasonable would it be to object to such an adjustment, because it aimed at settling by compromise, differences pronounced to be otherwise irreconcilable. That such an adjustment, and not a rigid adoption of one of the two claims to the exclusion of all compromise, was the object of the IVth Article of the Treaty of Ghent, will be manifest upon referring to that Article, in which provision is made for a decision of the arbiter which should be final and conclusive, even although the arbiter, owing to the neglect or refusal of one of the parties, should have had before him only one of the two claims which it would be his province to adjust. Even the official correspondence of the United States furnishes proofs that such was the understanding in that country, and among parties most interested in the subject, as to what would be the effect of the reference of this question to arbitration. "By "arbitration," (says the Governor of the State of Maine, in a letter to the President of the United States, dated May 19th, 1827, and previously, of course, to the conclusion of the Convention), "I understand a submission to "some Foreign Sovereign or State, who will decide at pleasure on the whole "subject, who will be under no absolute obligations or effectual restraint, by "virtue of the Treaty of 1783." And it appears, by a letter from the same functionary, dated the 18th of April in the same year, that Mr. Gallatin had used the following words, in a despatch to his Government on the same subject: "An umpire, whether a king or a farmer, rarely decides on strict principles of "law, he has always a bias, to try, if possible, to split the difference:" and the Secretary of State of the United States, in a letter to the Governor of Maine, written after the conclusion of the Treaty of Arbitration (viz. on the 27th of November, 1827), adverting to the above-mentioned exposition, by Mr. Gallatin, of the usual practice of umpires, and to the objection which the Governor of Maine had thereupon stated to the mode of settlement by arbitration, while he defends the Convention in spite of the objection of the Governor of Maine, admits that it is an objection to which the Convention is liable.

These passages will be found in the printed paper, No. 171, 30th Congress, 1st Session, at pages 80, 85, and 99.

On every ground, therefore, His Majesty feels confident that if the Government of the United States have not already, before your receipt of this despatch, announced their assent to the award of the King of the Netherlands, they will not hesitate to enable you to apprise His Majesty's Government of their acquiescence in that decision. The grounds on which His Majesty's acceptance of it was founded, have been fully explained to you in this despatch, and among the motives which influenced His Majesty on that occasion, there was none more powerful than the anxious desire which His Majesty feels, to improve and confirm the harmony which so happily exists on other subjects, between Great Britain and the United States of America, by thus settling, once for all, a question of great difficulty, and for which His Majesty is unable to see any other satisfactory solution.

I am, &c.

C. Bankhead, Esq.,  
&c. &c. &c.

(Signed) PALMERSTON.

No. 9.

*Viscount Palmerston to Charles Bankhead, Esq.*

Sir,

*Foreign Office, October 14, 1831.*

YOU will learn from the instruction, contained in my other despatch of this date, on the subject of the north-eastern boundary, that the communication which you are to make, in the name of His Majesty, to the Government of the United States, extends no farther than to propose a simple and unconditional acceptance of the award of the King of the Netherlands by the United States, and the consequent appointment of commissioners to carry that award into effect; such being, in the opinion of His Majesty's Government, the only course to be pursued at the present stage of the boundary question, consistently with the respective interests and obligations of the two Governments.

You are nevertheless authorized to intimate privately to the American Minister, upon any suitable occasion, that His Majesty's Government would not consider the formal acceptance of the award by Great Britain and the United States, as necessarily precluding the two Governments from any future modification of the terms of the arrangement prescribed in that instrument, provided it should appear that any particular parts of the boundary line, thus established, were capable of being improved to the mutual convenience and advantage of both countries; and you will state, that, after the award shall have been formally acceded to by both Governments, His Majesty's Government will be ready to enter, with the Government of the United States, into the consideration of the best means of effecting any such modification by reciprocal exchange and concession.

You will, however, be particularly cautious, in making any communication of this nature, to guard against the possibility of being misunderstood as inviting negotiation as a substitute for the adoption of the award.

Until the award is mutually adopted, any such concert between the two Governments would be impossible, because each party claiming the whole of the territory in dispute, there is no boundary line between the two, with respect to which modifications could be proposed by either party; but when the award is acquiesced in by both sides, and a boundary line is thus established to which both Governments shall have assented, there will then be a basis upon which exchanges or modifications might reciprocally be effected.

I am, &amp;c.

*Charles Bankhead, Esq.*

(Signed)

PALMERSTON.

&amp;c. &amp;c. &amp;c.

No. 10.

*Charles Bankhead, Esq., to Viscount Palmerston.—(Received December 29.)*

My Lord,

*Washington, December 6, 1831.*

I HAVE the honour to transmit to your Lordship, a copy of the Message from the President of the United States, delivered, this day, to both Houses of Congress, upon the commencement of the session.

I have the honour to be, &amp;c.

(Signed)

CHARLES BANKHEAD.

*Viscount Palmerston.*

&amp;c. &amp;c. &amp;c.

Inclosure in No. 10.

*Extract from the Message of the President.*

AFTER our transition from the state of colonies to that of an independent nation, many points were found necessary to be settled between us and Great Britain. Among them was the demarcation of boundaries, not described with sufficient precision in the Treaty of peace. Some of the lines that divide the states and territories of the United States from the British provinces, have been definitively fixed. That, however, which separates us from the provinces of Canada and New Brunswick to the north and the east, was still in dispute when I came into office. But I found arrangements made for its settlement, over which I had no control. The commissioners who had been appointed under the provisions of the Treaty of Ghent, having been unable to agree, a Convention was



made with Great Britain by my immediate predecessor in office with the advice and consent of the Senate, by which it was agreed "that the points of difference which have arisen in the settlement of the boundary line between the American and British dominions, as described in the 5th Article of the Treaty of Ghent, shall be referred, as therein provided, to some friendly Sovereign or State, who shall be invited to investigate, and make a decision upon such points of difference:" and the King of the Netherlands having, by the late President, and His Britannic Majesty, been designated as such friendly Sovereign, it became my duty to carry, with good faith, the agreement so made, into full effect. To this end I caused all the measures to be taken which were necessary to a full exposition of our case, to the sovereign arbiter; and nominated as Minister Plenipotentiary to his court, a distinguished citizen of the State most interested in the question, and who had been one of the agents previously employed for settling the controversy. On the 10th day of January last, His Majesty the King of the Netherlands delivered to the Plenipotentiaries of the United States, and of Great Britain, his written opinion on the case referred to him. The papers in relation to the subject will be communicated by a special message to the proper branch of the Government, with the perfect confidence that its wisdom will adopt such measures as will secure an amicable settlement of the controversy, without infringing any constitutional right of the States immediately interested.

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## No. 11.

*Charles Bankhead, Esq. to Viscount Palmerston.—(Received January 16.)*

(Extract.)

*Washington, December 20, 1831.*

I HAVE the honour to acknowledge the receipt on the 18th instant, of your Lordship's despatch dated 14th October.

In obedience to His Majesty's commands conveyed to me by your Lordship, I addressed a note to the Secretary of State, in nearly the same terms employed in your Lordship's despatch.

As the award of the King of the Netherlands upon the subject of the boundary between His Majesty's North American provinces, and the United States, is at present before the Senate for their decision, Mr. Livingston is unable, at present to answer my note; but he assures me that in a very few days I may expect a communication upon the subject of that decision.

The Secretary of State seemed most anxious to receive from me the announcement of His Majesty's assent to the award, and I have no doubt that my note will forthwith be submitted to the Senate.

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## No. 12.

*Charles Bankhead, Esq. to Viscount Palmerston.—(Received March 7.)*

(Extract.)

*Washington, February 12, 1832.*

THE Legislature of the State of Maine have passed several resolutions, with reference to the decision of the King of the Netherlands, upon the north-eastern boundary, and they have appointed Mr. Preble, who lately returned from Holland, to present them to the Senate of the United States.

The award of the King of the Netherlands has been for a length of time before the Senate, and I fear that Mr. Preble's arrival will in some degree delay the decision of the question by that branch of the executive.

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## No. 13.

*Charles Bankhead, Esq. to Viscount Palmerston.—(Received April 23.)*

(Extract.)

*Washington, March 29, 1832.*

MR. PREBLE has been for some time in Washington, charged by the State of Maine to protect their interests, respecting the boundary between that State and New Brunswick. The proceedings of the Secret Session of the Council and House of Representatives of Maine have lately been disclosed to the public, and it appears that an agreement has taken place, subscribing, under certain conditions, to the decision of the King of the Netherlands. Those conditions, as given in the Maine Newspapers, are, that Commissioners, on the part of the

United States, and on the part of the State of Maine, are to be appointed in order to negotiate as to an indemnity to be given by the former to the latter, for the loss which she alleges that she would suffer by her acceptance of the Netherland arbitration. That the result of this commission is to be laid before the legislature for their ultimate acceptance or rejection.

I immediately asked the Secretary of State what degree of credit I was to attach to this report; Mr. Livingston told me that the whole question was still under discussion, but that he hoped in a very short time to be enabled to transmit to me the different papers connected therewith, and to give such an answer to my note as should be satisfactory.

## No. 14.

*Charles Bankhead, Esq. to Viscount Palmerston.—(Received July 13.)*

My Lord,

*Washington, June 13, 1832.*

I HAVE heretofore delayed the fulfilment of the instructions which I had the honour of receiving from your Lordship, in your despatch of October 14, of last year, respecting the ulterior views which His Majesty's Government might entertain, when the question of boundary, as awarded by the King of the Netherlands, should have been fully acquiesced in by the United States.

I did so, because the Senate in its executive capacity had shewn no disposition to take up the question, and I thought that the slightest intimation on my part, as to the possibility of future negotiation, would, perhaps, endanger the favourable decision of the Senate upon the original question, which decision, fully and unconditionally declared, was to *precede* any other step which might be taken thereupon. However, during the last two days, I learnt that the whole boundary question has been under the consideration of the Senate; and Mr. Livingston informed me, that he hoped very soon to be able to communicate to His Majesty's Government the decision of the United States upon it. I thought that this was a proper moment, informally, to intimate to the Secretary of State that His Majesty's Government might not be indisposed to enter into explanations with this Government with a view to effect some modifications by reciprocal exchange and concession, but that the full and unconditional acceptance of the award by this country must precede any such intention on the part of Great Britain.

Mr. Livingston asked me (and he did so informally) whether I was authorized to make or to receive any overture *before* the President had signified his assent to the award; I replied, of course, in the negative.

I hope that your Lordship will not consider that I have exceeded the discretionary power with which you invested me in bringing forward, at this moment, the possibility of a future arrangement being effected relative to the north-east boundary.

I have the honour to be, &c.

*Viscount Palmerston.*

(Signed) CHARLES BANKHEAD.

&c. &c. &c.

## No. 15.

*Charles Bankhead, Esq., to Viscount Palmerston.—(Received August 9.)*

(Extract.)

*Washington, July 13, 1832.*

IT is with great regret that I have to announce to your Lordship, that the Senate has refused to sanction the acquiescence, on the part of the President of the United States, to the award of the King of the Netherlands on the disputed territory.

The subject was submitted to that body early in the session, and accompanied by the earnest wish of the President, that the award should be agreed to. The message was referred to the committee on foreign relations who reported their opinion that the President's views should be acceded to. A motion was then made that the votes of *two thirds* of the Senate should be considered necessary to pronounce a final opinion. This enabled the opponents of the measure to defeat the views of the Government, and finally, the Senate withheld their assent to the award of His Netherland Majesty, and recommended



to the President to enter into farther negotiations respecting the territory in dispute.

I am sure that the President and his Cabinet, regret this decision on the part of the Senate.

I have not yet received from the Secretary of State the official notification of this proceeding, but I am given to understand that such a document is in preparation, and Mr. Livingston informs me that he hopes the tenour of it will be such as shall, in some degree, be satisfactory to His Majesty's Government.

No. 16.

*Charles Bankhead, Esq., to Viscount Palmerston.—(Received August 18.)*

My Lord,

*Washington, July 21, 1832.*

I AM at length enabled to transmit to your Lordship a copy of the note from the Secretary of State of the United States, in answer to the one which I had the honour of communicating to this Government in December last, and which contained the accession of His Majesty to the award of the King of the Netherlands upon the subject of the north-east boundary.

I regret to state to your Lordship that the Senate of the United States have not consented to follow the unreserved and conciliatory conduct which influenced His Majesty on this occasion.

The Secretary of State, in the enclosed letter, states that the reasons which have induced the Senate thus to set aside the award, are to be found in the manner in which that award was given,—that a distinct question was proposed for His Netherland Majesty's decision; and that, instead of offering his opinion as to the true meaning of that part of the Treaty of 1783, which relates to the north-east boundary, His Majesty overlooked the claims of both of the contending parties, and assumed the character of a mediator in advising them to accept a line of boundary which was not in accordance with the one which each contended for. The Senate, however, resolved to advise the President to open a new negotiation with His Majesty's Government for ascertaining the true boundary under the provisions of the Treaty of 1783.

In a latter part of Mr. Livingston's note, he states, that even should the negotiators be unable to agree on the true line, as designated by the Treaty, means will be found of avoiding certain constitutional difficulties hitherto attendant on the establishment of a boundary more convenient than that designated by the Treaty or by the award; as an arrangement is in progress between the State of Maine, and the general Government, for the purpose of clothing the latter with more ample powers to effect that end.

Such a negotiation, if co-incided in by His Majesty's Government, will, says Mr. Livingston, naturally embrace the right of navigation of the River St. John. How such an important concession will be viewed by His Majesty's Government, it is not for me to judge, but it is one which has long been desired by the United States, and by obtaining which, they expect to derive great advantages.

Various reasons are adduced by the Secretary of State for desiring that such a negotiation (if entered into) should be opened at Washington, and he concludes with the expression on the part of the President, of an anxious desire that the difference may be settled to the mutual benefit and good will of the parties interested.

I thought right merely to acknowledge the receipt of Mr. Livingston's note, without taking any exception to the conduct of the Senate in rejecting the award, or offering any remark on the length of time which has elapsed before that body have come to a decision upon the subject.

I have the honour to be, &c.

*Viscount Palmerston, G.C.B.*

(Signed)

CHARLES BANKHEAD

&c. &c. &c.

Inclosure in No. 16.

*The Hon. Edward Livingston, to Charles Bankhead, Esq.*

*Department of State, Washington, July 21, 1832.*

THE Undersigned, &c. will now have the honor to fulfil to Mr. Bankhead,

&c., the promise which he made, that as soon as the action of the Senate should be known, on the reference made to that body, of the decision of the King of the Netherlands, the Undersigned would answer Mr. Bankhead's note of 20th December last.

His Britannic Majesty's Government is too well acquainted with the division of powers in that of the United States, to make it necessary to enter into any explanation of the reasons which rendered it obligatory on the President to submit the whole subject to the Senate for its advice. The result of that application is a determination on the part of the Senate, not to consider the decision of the King of the Netherlands as obligatory, and a refusal to advise and consent to its execution. But they have passed a resolution advising, "the President to open a new negotiation with His Britannic Majesty's Government, for the ascertainment of the boundary between the possessions of the United States and those of Great Britain, on the north-eastern frontier of the United States, according to the Treaty of Peace of 1783." This resolution was adopted on the conviction felt by the Senate that the Sovereign Arbiter had not decided the question submitted to him, or had decided it in a manner unauthorized by the submission.

It is not the intention of the undersigned to enter into an investigation of the argument which has led to this conclusion, the decision of the Senate precludes it, and the object of this communication renders it unnecessary;—but it may be proper to add that no question could have arisen as to the validity of the decision, had the Sovereign Arbiter determined on, and designated any boundary, as that which was intended by the Treaty of 1783. He has not done so, not being able, consistently with the evidence before him, to declare that the line he has thought the most proper to be established, was the line intended by the Treaty of 1783; he seems to have abandoned the character of arbiter, and assumed that of mediator, advising both parties that a boundary which he describes, should be accepted, as one most convenient to them. But this line trenches, as is asserted by one of the States of the Union, upon its territory, and that State controverts the constitutional power of the United States to circumscribe its limits without its assent. If the decision had indicated this line as the boundary designated by the Treaty of 1783, this objection could not have been urged, because then, no part of the territory to the north or the east of it, could be within the state of Maine. And however the United States, or any individual State might think itself aggrieved by the decision, as it would in that case have been made in conformity to the submission, it would have been carried into immediate effect. The case is now entirely different, and the necessity for farther negotiation must be apparent to adjust a difference which the Sovereign arbiter has, in the opinion of a co-ordinate branch of our executive power, failed to decide. That negotiation will be opened and carried on by the President with the sincerest disposition to bring to an amicable, speedy, and satisfactory conclusion, a question which might otherwise interrupt the harmony which so happily subsists between the two countries, and which he most earnestly wishes to preserve.

The Undersigned is instructed to say, that even if the negotiators of the two parties are unable to agree on the true line designated by the Treaty of 1783, means will probably be found of avoiding the constitutional difficulties that have hitherto attended the establishment of a boundary, more convenient to both parties than that designated by the Treaty, or that recommended by His Majesty the King of the Netherlands, an arrangement being now in progress with every probability of a speedy conclusion, between the United States and the State of Maine, by which the Government of the United States will be clothed with more ample powers, than it has heretofore possessed, to effect that end. Should a negotiation be opened on this principal point, it will naturally embrace, as connected with it, the right of navigation of the river St. John, an object of scarcely less importance to the convenience and future harmony of the two nations, than the designation of the boundary, it being the wish of the President, and, as he has the best reason to believe, that of His Britannic Majesty's Government, to remove all causes for misunderstanding between the two countries, by a previous settlement of all points on which they might probably arise.

Presuming that the state of things produced by the resolution of the Senate above referred to, and the desire expressed by the President to open, carry on, and conclude the negotiation recommended by that body, in the most frank and amicable manner, will convince His Britannic Majesty's Government of the ne-



cessity of meeting the offers now made with a correspondent spirit, the undersigned is directed to propose for consideration the propriety of carrying on the negotiation at this place. The aid which the negotiators on both sides would derive, from being in the vicinity of the territory in dispute, as well as the information with respect to localities from persons well acquainted with them, which they might command, are obvious considerations in favour of this proposition.

Until this matter shall be brought to a final conclusion, the necessity of refraining, on both sides, from any exercise of jurisdiction, beyond the boundaries now actually possessed, must be apparent, and will no doubt be acquiesced in on the part of the authorities of His Britannic Majesty's provinces, as it will be by the United States.

*C. Bankhead, Esq.*

The undersigned, &c.

(Signed) EDW. LIVINGSTON.

No. 17.

*Charles Bankhead, Esq. to Viscount Palmerston.—(Received August 25.)*

(Extract.)

*Washington, July 28, 1832.*

I TAKE the liberty of transmitting to your Lordship an account of the proceedings which took place in the Senate in their executive capacity, during the discussion upon the award of the King of the Netherlands.

Your Lordship will observe by the perusal of this paper, that the Senate was divided into three parties: the first composed of those who desired the acceptance of the award; among them was Mr. Tazewell, the Chairman of the Committee of Foreign Relations; the second was composed of those who thought that the question did not come under the cognizance of the Senate; and the third party included those who were opposed to the acceptance of the award.

The result of this has been the rejection of the measure, and an invitation to the President to enter anew into negotiation with His Majesty's Government upon the whole question of boundary.

The unfortunate wording of that instrument, which might imply mediation as well as decision, has given a strong hold to those who were opposed to the measure.

I have no reason to doubt that the President desired the fulfilment of the award.

No. 18.

*A. Vail, Esq., to Viscount Palmerston.—(Received August 24.)*

*304, Regent Street, August 20, 1832.*

THE Undersigned, Chargé d'Affaires of the United States of America at the Court of His Britannic Majesty, has the honour, in compliance with instructions recently received from his Government, to inform the Right Honourable Lord Viscount Palmerston, His Majesty's Principal Secretary of State for Foreign Affairs, that the Senate of the United States, to whom the President had, in the constitutional discharge of his functions, referred the decision of the King of the Netherlands upon the question submitted to him by the two Governments respecting the boundary of their respective territories, for its advice thereon,—has determined to consider the decision referred to, as not obligatory on the part of the United States, and refused to advise and consent to its being carried into effect.

The enclosed copy of a note addressed on the 21st ultimo, by the Secretary of State of the United States to His Majesty's Chargé d'Affaires at Washington, which the Undersigned is directed to lay before His Majesty's Government, and to which he begs leave to refer Lord Palmerston, will acquaint his Lordship with a resolution passed at the same time by the Senate of the United States, advising the executive to open a new negotiation with the British Government, for the purpose of determining the boundary in question,—with the desire of the President that such a negotiation may speedily be entered upon, and with his views and wishes as to the means of bringing it to a satisfactory termination.

In submitting the above for the consideration of His Majesty's Government, the Undersigned avails himself of the occasion to discharge the pleasing duty assigned to him, of assuring Lord Palmerston of the sincerity of the President's intention to enter upon the proposed negotiation with the most conciliatory disposition, which he flatters himself, will be met on the part of His Majesty's Government, by a corresponding spirit, and by a desire equal to that which he entertains of removing from the harmonious intercourse now so happily subsisting between the two countries, all possible causes of future contention or unfriendly feeling.

The Undersigned, &c.

(Signed)

A. VAIL.

Viscount Palmerston, G. C. B.

&c. &c. &c.

No. 19.

*Viscount Palmerston to A. Vail, Esq.*

Sir,

*Foreign Office, August 27, 1832.*

THE Undersigned, &c. has the honour to acknowledge the receipt of the note of Mr. Vail, &c., dated the 20th instant, announcing that the Senate of the United States have determined to consider the decision of the King of the Netherlands upon the question submitted to him by the Governments of His Majesty and of the United States, relative to the boundary of their respective territories, as not obligatory on the part of the United States, and that they have refused to advise and consent to its being carried into effect; in consequence of which, the Government of the United States invite His Majesty's Government to open a new negotiation for the purpose of determining the boundary in question.

The undersigned has laid Mr. Vail's communication before the King, and will not fail to inform Mr. Vail as soon as His Majesty's Government have come to a decision upon the important subject to which it relates.

The Undersigned, &c.

(Signed)

PALMERSTON.

A. Vail, Esq.

&c. &c. &c.

No. 20.

*Charles Bankhead, Esq. to Viscount Palmerston.—(Received January 2, 1833.)*

(Extract.)

*Washington, December 5, 1832.*

I HAVE the honour to transmit to your Lordship a copy of the message of the President of the United States, which was communicated to both Houses of Congress on the 4th instant.

With respect to the north-east boundary, of course the President could say but little. He merely states, that early attention had been promised on the part of His Majesty's Government to the subject, on their reception of the decision of the Senate upon the award of the King of the Netherlands.

The President has not failed on the present occasion to renew that expression of friendly feeling towards Great Britain, which he has invariably touched upon in his several messages to Congress.

Inclosure in No. 20.

*Extract from the Message of the President.*

THE question of our north-eastern boundary still remains unsettled. In my last annual message, I explained to you the situation in which I found that business on my coming into office, and the measures I thought it my duty to pursue for asserting the rights of the United States before the Sovereign, who had been chosen by my predecessor to determine the question; and also the manner in which he had disposed of it. A special message to the Senate in



their executive capacity, afterwards brought before them the question, whether they would advise a submission to the opinion of the Sovereign Arbitrator. That body having considered the award as not obligatory, and advised me to open a farther negotiation, the proposition was immediately made to the British Government: but the circumstances to which I have alluded have hitherto prevented any answer being given to the overture. Early attention, however, has been promised to the subject, and every effort on my part will be made for a satisfactory settlement of this question, interesting to the Union generally, and particularly so to one of its members.

No. 21.

*Viscount Palmerston to Sir C. R. Vaughan.*

Sir,

*Foreign Office, February 25, 1833.*

AMONG the questions upon which it will be your duty to enter into early communication with the American Government, on your return to your post at Washington, there is none in which His Majesty's Government feel a deeper interest, than that which relates to the long disputed claims of the two countries, with respect to the boundary between the north-east portion of the United States, and His Majesty's colonial possessions in North America.

His Majesty had indulged a confident hope, that the means of adjusting a question which had been the object of fruitless negotiation during a long series of years, and the settlement of which is essential to the preservation of a good understanding between the two countries, had at length, been attained, by the reference to arbitration formally agreed upon and regulated by the Convention of the 29th September, 1827; and His Majesty, influenced by an earnest desire to promote the harmony, so happily subsisting between His Government and that of the United States, no less than by his sense of the obligations imposed upon him, in common with the American Government, by that Convention, did not hesitate to declare his acceptance of the decision of the Arbitrator, notwithstanding the large sacrifice, which it involved, of territory, heretofore considered as belonging to the British Crown.

It was not, therefore, without very deep concern, that His Majesty saw his hopes frustrated, and the sacrifice which he had been willing to make rendered unavailing, by the communication contained in the note addressed by the American Secretary of State to the Chargé d'Affaires of His Majesty at Washington, dated the 21st July, 1832.

By that note, to which I have now to refer you, His Majesty's Government are informed, that the Senate of the United States, to which body the President, as required by the constitution, had submitted the question for its advice, had determined not to consider the decision of the King of the Netherlands upon the line of boundary, which was submitted to his arbitration, "as obligatory;" and that they had refused to advise and consent to its execution, on the ground that His Netherland Majesty had abandoned the character of arbitrator, and had assumed that of mediator; and that he had not decided the question submitted to him, or had decided it in a manner unauthorized by the terms of the reference.

The American Secretary of State observes that the validity of the decision would not have been questioned, had the arbitrator determined upon, and designated any boundary, as that which was intended by the Treaty of 1783. But that the line which the King of the Netherlands advises both parties to accept, as one most convenient to them, trenches on the State of Maine, which State denies the constitutional power of the General Government to circumscribe its limits without its assent.

Mr. Livingston goes on to say, that the necessity for farther negotiation had thus become apparent, to adjust a difference which the Arbitrator had failed to decide; and that the President therefore, in conformity with a resolution of the Senate, proposes to open a new negotiation with His Majesty's Government, "for the ascertainment of the boundary between the possessions of the United States and those of Great Britain, on the north-eastern frontier of the United States, according to the Treaty of Peace of 1783."

His Majesty's Government regret, that they cannot discover in this proposal any probable means of arriving at a settlement of this difficult question. It appears to His Majesty's Government to be utterly hopeless to attempt to find

out, at this time of day, by means of a new negotiation, an assumed line of boundary, which successive negotiators, and which commissioners employed on the spot, have during so many years failed to discover; and which, finally, an impartial arbitrator, furnished by each claimant with every fact and argument that had been adduced on either side of the question, had declared the impossibility of tracing, in conformity with the description of it contained in the Treaty of 1783.

Mr. Livingston does indeed suggest in a subsequent part of his note, the practicability of a negotiation on a broader principle. He states that, if the negotiators of the two parties should be unable to agree on the true line designated by the Treaty of 1783, "means will probably be found of avoiding the constitutional difficulties that have hitherto attended the establishment of a boundary more convenient to both parties than that designated by the Treaty, or than that recommended by His Majesty the King of the Netherlands;" and he adds, "that an arrangement is now in progress with every probability of a speedy conclusion, between the United States and the State of Maine, by which the Government of the United States will be clothed with more ample powers than it has heretofore possessed, to effect that end."

His Majesty's Government will eagerly avail themselves of any probable chance of bringing to a satisfactory settlement, a question of such vital consequence to the harmony and good understanding between the two Governments; and I am to instruct you to lose no time in endeavouring to ascertain from Mr. Livingston, in the first place, what is the principle of the plan of boundary, which the American Government appear to contemplate as likely to be more convenient to both parties than those hitherto discussed; and, secondly, whether any, and what arrangement, such as Mr. Livingston alludes to, for avoiding the constitutional difficulty, has yet been concluded between the General Government and the State of Maine.

It is necessary that His Majesty's Government should be informed of the basis on which it is proposed to negotiate, before they can either entertain the proposal, or decide upon the instructions, which it may be necessary to give to the Minister, to whom the negotiation, when agreed to, may be entrusted; and it is especially essential, that His Majesty should be previously assured, that the President of the United States will possess the power of carrying into full effect his part of any engagement which may be concluded betwixt the Plenipotentiaries of the two Governments.

You will assure the American Minister, in making these communications to him, that, if His Majesty's Government shall be enabled, upon receiving satisfactory explanations on the points which I have just mentioned, to acquiesce in the proposition of the American Government, they will enter upon the negotiation which may then be opened, in the most friendly spirit and with the most sincere desire to arrive at a settlement mutually beneficial to both countries; and you may farther assure Mr. Livingston, that His Majesty's Government entirely concur with that of the United States, in the principle of continuing to abstain, during the progress of the negotiation, from extending the exercise of jurisdiction within the disputed territory, beyond the limits within which it has hitherto been usually exercised by the authorities of either party.

It is due, however, to the frankness which His Majesty desires should characterize every communication between the British and American Governments, that I should not conclude this despatch without distinctly declaring to you, in answer to that part of Mr. Livingston's note, in which he expresses for the first time, the wish of the American Government to connect with the discussion of the boundary question, that of the navigation of the river St. John, that it will be impossible for His Majesty to admit the principle upon which it is attempted to treat these two questions as necessarily connected with each other. Whatever might be the eventual decision of His Majesty upon the latter question, if treated separately, and whatever may be His Majesty's disposition to promote the harmony so happily subsisting between the two countries, by any arrangements which might tend to the convenience of the citizens of the United States, without being prejudicial to the essential interests of his own subjects, His Majesty cannot admit any claim of right on the part of the citizens of Maine to the navigation of the St. John, nor can he consider a negotiation on that point, as necessarily growing out of the question of boundary.



His Majesty cannot therefore consent to embarrass the negotiation respecting the boundary, by mixing up with it a discussion respecting the navigation of the river St. John, as an integral part of the same question.

I am, &c.

Rt. Hon. Sir C. R. Vaughan.  
 &c. &c. &c.

(Signed)

PALMERSTON.

P.S.—You will communicate the substance of this despatch to the American Minister, by a note, in answer to that which Mr. Livingston addressed to Mr. Bankhead on the 21st July, 1832.

No. 22.

*A. Vail, Esq., to Viscount Palmerston.—(Received April 4.)*

304, Regent Street, April 3, 1833.

IN a note which the Undersigned, Chargé d'Affaires of the United States of America, had the honor to address, on the 20th of August last, to the Right Honorable Lord Viscount Palmerston, His Majesty's Principal Secretary of State for Foreign Affairs, he laid before his Lordship by direction of his Government, a proposition to open a negotiation for the purpose of determining certain points of the line of boundary between the United States and His Majesty's North American colonies. On the 27th of the same month, Lord Palmerston had the goodness to apprise the Undersigned, by a note of that date, that the subject had been laid before the King, and that the decision of His Majesty's Government upon it, would be made known to him as soon as adopted. In subsequent conversations with which the Undersigned was honored by Lord Palmerston, his Lordship stated that His Majesty's Ministers felt some hesitation in coming to a determination with regard to the proposition of the American Government, for want of more precise information than the Undersigned had it in his power to afford, respecting certain points which would necessarily come up for discussion in the course of the proposed negotiation, and appeared to entertain a desire that such information should be supplied. The Undersigned having communicated to his Government a copy of the written answer and the import of the verbal remarks of Lord Palmerston, has recently received from the Secretary of State of the United States, an answer to his several despatches upon the subject, by which he is directed to state to Lord Palmerston, that the President is still anxiously waiting for the promised decision of the British Government, and to add the following observations, which, it is hoped, will serve to remove the difficulties which appear to have been viewed by Lord Palmerston as standing in the way of it.

When the Secretary of State of the United States proposed that the contemplated negotiation should be carried on at Washington, his intention, as will appear on reference to his note to Mr. Bankhead of the 21st July, 1832, of which a copy accompanied that of the Undersigned of the 20th of August, was simply to suggest a place which, as affording many desirable facilities for the proposed object, would, he thought, prove equally agreeable to both parties: he now states more distinctly, that he never meant it as a point to be insisted upon on the part of the United States; and he instructs the Undersigned to say to Lord Palmerston, that, inasmuch as he intended it to be left to the option of the parties, if His Majesty's Government should entertain a preference for some other place, the President, animated by a sincere disposition to put an end to this and every other cause of difference between the two countries, is ready to instruct His Minister to enter upon the proposed negotiation with an anxious desire that it should be carried to an amicable close, on terms which will require no sacrifice of national honor or interest from either of the parties.

With regard to the enquiries made by Lord Palmerston in conversation with the Undersigned, respecting the nature of the propositions to be brought forward on the part of the United States, in relation to the boundary itself, the character of the arrangement which might be effected with the State of Maine, and the wishes of the American Government respecting the navigation of the river St. John, the Undersigned is instructed to say that these being the very points which are to be made the subject of negotiation, after the parties shall have agreed to open one, they can scarcely require to be developed, as a

preliminary, on the simple question, whether the parties are willing to negotiate : and, that to enter upon the consideration of those points, at the present stage of the business, farther than has, in general terms, been done in the overture made on the part of the United States, would be to anticipate the negotiation itself. In laying these observations before His Majesty's Government, the Undersigned is further instructed to state to Lord Palmerston, that the proposition submitted by the United States was made, and is now repeated, under the belief than an affirmative answer to it will lead to such an adjustment of this long pending subject of difference, as will prove satisfactory to both parties.

The Undersigned, therefore, encouraged by the friendly assurances and explanations, which, by order of the President, he has the honor to present for the early and favorable consideration of His Majesty's Government, indulges the hope that the difficulties which appear to have prevented an earlier decision upon the proposition of the United States will now be removed, and requests that he may, with as little delay as is consistent with the importance of the subject, be made acquainted, for the information of his own Government, with the determination of that of His Britannic Majesty.

The Undersigned, &c.

Viscount Palmerston, G.C.B.

&c. &c. &c.

(Signed)

A. VAIL.

### No. 23.

*Sir C. R. Vaughan to Viscount Palmerston.—(Received May 14.)*

My Lord,

*Washington, April 13, 1833.*

I RECEIVED yesterday your Lordship's despatch of February 25, directing me to enter into communication with the American Government respecting the long disputed claims of the two countries, with regard to the boundary between the north-eastern portion of the United States and His Majesty's colonial possessions in North America, and authorizing me to submit the contents of your Lordship's despatch to Mr. Livingston, in answer to his note of the 21st July, 1832.

I requested a conference with Mr. Livingston, and I this day read over to him your Lordship's despatch, and, in conformity with my instructions, I promised to communicate the contents in an official note.

I have little further to report, as the result of my first interview upon the question of boundary, than that my communication was received in the same spirit of frankness and conciliation in which it was made ; and I shall await a developement of the views of this Government, with regard to the line of boundary, after time has been given for deliberation upon the contents of your Lordship's despatch, which contains the clearest instructions for my conduct, and, in my opinion, the best possible answer to the note of the American Secretary of State, of the month of July last.

I have the honour to be, &c.

(Signed)

CHAS. R. VAUGHAN.

Viscount Palmerston, G.C.B.

&c. &c. &c.

### No. 24.

*Sir C. R. Vaughan to Viscount Palmerston.—(Received June 8.)*

(Extract.)

*Washington, May 13, 1833.*

IN my despatch of April 13, I stated that I should communicate to the Secretary of State of the United States the instructions, *in extenso*, which I had received upon the boundary question, and I have the honour to enclose a copy of the note which I addressed to Mr. Livingston, which is a transcript only of your Lordship's despatch of February 25.

To that note I have received an answer from Mr. Livingston, a copy of which I have the honour to enclose, accompanied with a copy of my note to him, containing observations upon the means which he has suggested of settling the boundary question.



Those means consist in a renewal of negotiation, and, in the event of its failing, a recurrence to commissions of boundary, either consisting of an equal number of commissioners, attended by an umpire, to be selected by a friendly Sovereign, with a power to decide, finally, all disputed points; or a commission of the most skilful persons in Europe, to be selected by a friendly Sovereign, and to be attended by agents appointed by both parties, in their view and survey of the country, to decide peremptorily the conflicting claims.

I am happy to observe, that the Government of the United States has consented "not now to insist" on the navigation of the St. John, which Mr. Livingston states was only brought forward as forming part of a system of compensation in settling a more convenient boundary.

With regard to the renewal of negotiation proposed by Mr. Livingston, I must first call your Lordship's attention to the declaration in his note, that the Government of the United States "in the present state of things can only treat" "on the basis of the establishment of the boundary presented by the Treaty," the arrangement having failed which was announced to be in progress last summer, with the State of Maine, and which was to enable the General Government to treat for a more convenient boundary. It appears to me that to renew a negotiation, restricted to that basis, would be perfectly useless.

With regard to the commissions of boundary proposed by Mr. Livingston, they differ from those under the Vth Article of the Treaty of Ghent, in as much as they are to be attended by an umpire empowered to decide, at once, all disputed points; or a final decision is to be given by the commission of scientific persons, accompanied by agents of all the parties, for the purpose, I presume, of arguing any disputed points. I have ventured to express to Mr. Livingston my conviction, that His Majesty's Government would, with great reluctance, consent again to have recourse to commissions, after the delay, expence and unsatisfactory result of those under the Treaty of Ghent. The commissioners were then attended by agents, and they had the assistance of scientific persons, and their statements, when they disagreed, were finally submitted to their respective Governments.

The view partially developed by Mr. Livingston of deviating from the direct line from the sources of the St. Croix, I was afraid was meant to pledge the British Government to drawing a line to mountains eastward of the present supposed position of the highlands of the Treaty, which, though they may be a more decided feature in the country than the latter, could not be placed upon the boundary without allowing the Americans to trench upon the acknowledged possessions of His Majesty in New Brunswick.

Mr. Livingston, however, has called upon me, and explained more clearly the view which he had only partially developed in his note. According to his explanation, the line which he would propose to draw from the sources of the St. Croix River, would be carried to the left of the due north line, or westward, instead of to the right, or eastward towards New Brunswick, upon a supposition that at a point some fifty miles (according to a small defective map which he produced) westward of the position upon the St. Francis River, given to the United States by the decision of the King of the Netherlands, highlands may be found which would, as described in the Treaty of 1783, divide waters falling on the one side into the River St. Lawrence, and on the other, into the Atlantic. To ascertain this fact, Mr. Livingston would propose that the two Governments should appoint a commission, in either of the forms suggested in his note.

Mr. Livingston called upon me, as I understood, after having submitted to the President my observations upon his note of the 30th April, and he stated to me, that after the proceedings in the Senate last year, the President was restricted to tracing a line of boundary according to the terms of the Treaty of 1783.

I can only at present give to your Lordship an account of my conversation with Mr. Livingston this day; and as I found that he was to leave Washington for several days, and that I could not expect a written statement of his proposal, the necessity of which I impressed upon him, till his return, I lose no time in making your Lordship acquainted with what has passed.

There certainly seems to be a disposition on the part of the President and his Secretary of State to settle the disputed question of boundary.

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Inclosure 1 in No 24.

*Sir C. R. Vaughan to the Hon. Edward Livingston.*

*Washington, April 14, 1833.*

THE Undersigned, &c., having been directed by his Government to open, upon his arrival at Washington, a communication with the Government of the United States, upon the question which relates to the long disputed claims of the two countries with respect to the boundary between the north-eastern portion of the United States, and His Majesty's colonial possessions in North America, he has already made Mr. Livingston acquainted with the instructions which he has received upon this question on which His Majesty's Government feels so deep an interest, and the Undersigned is authorized by his Government to lay openly, and without reserve, the nature of those instructions in an official note to the Secretary of State, as they contain the answer which His Majesty's Government have decided to make to the note of Mr. Livingston, of the month of July last.

His Majesty had indulged a confident hope, that the means of adjusting a question which had been the object of fruitless negotiation during a long series of years, and the settlement of which, is essential to the preservation of a good understanding between the two countries, had, at length been attained by the reference to arbitration formerly agreed upon and regulated by the Convention of the 29th September, 1827; and His Majesty, influenced by an earnest desire to promote the harmony so happily subsisting between his Government and that of the United States, no less than by his sense of the obligations imposed upon him, in common with the American Government, by that Convention, did not hesitate to declare his acceptance of the decision of the arbitrator, notwithstanding the large sacrifice which it involved of territory heretofore considered as belonging to the British Crown. It was not therefore without very deep concern, that His Majesty saw his hopes frustrated, and the sacrifice which he had been willing to make, rendered unavailing by the communication contained in the note addressed by the American Secretary of State to the Chargé d'Affaires of His Majesty at Washington, dated the 21st July, 1832.

By that note His Majesty's Government are informed, that the Senate of the United States, to which body the President, as required by the Constitution, had submitted the question for its advice, had determined not to consider the decision of the King of the Netherlands, upon the line of boundary which was submitted to his arbitration "as obligatory," and that they had refused to advise and consent to its execution, on the ground that His Netherland Majesty had abandoned the character of arbitrator, and had assumed that of mediator; and that he had not decided the question submitted to him, or had decided it in a manner unauthorized by the terms of the reference.

The American Secretary of State observes, that the validity of the decision would not have been questioned, had the arbitrator determined upon and designated any boundary, as that which was intended by the Treaty of 1783. But that the line, which the King of the Netherlands advises both parties to accept as one most convenient to them, trenches on the state of Maine, which state denies the constitutional power of the General Government to circumscribe its limits without its assent.

The necessity for further negotiation, according to Mr. Livingston's note, had thus become apparent, to adjust a difference which the arbitrator had failed to decide; and that the President, therefore, in conformity with a resolution of the Senate, proposes to open a new negotiation with His Majesty's Government, "for the ascertainment of the boundary, between the possessions of the United States and those of Great Britain, on the north-eastern frontier of the United States, according to the Treaty of Peace 1783."

His Majesty's Government regret that they cannot discover in this proposal any probable means of arriving at a settlement of this difficult question. It appears to His Majesty's Government to be utterly hopeless to attempt to find out, at this time of day, by means of a new negotiation, an assumed line of boundary, which successive negotiators, and which commissioners employed on the spot have, during so many years, failed to discover; and which, finally, an impartial arbitrator, furnished by each claimant with every fact and argument that had been adduced on either side of the question, had declared the impossibility of tracing, in conformity with the description contained in the Treaty of 1783.



In a subsequent part of Mr. Livingston's note, the practicability is suggested of a negotiation on a broader principle. He states, that if the negotiators of the two parties should be unable to agree on the true line, designated by the Treaty of 1783, "means will probably be found of avoiding the constitutional difficulties" that have hitherto attended the establishment of a boundary, more convenient "to both parties than that designated by the Treaty, or than that recommended by His Majesty the King of the Netherlands;" and he adds, that "an arrangement is now in progress, with every probability of a speedy conclusion, between the United States and the State of Maine, by which the Government of the United States will be clothed with more ample powers, than it has heretofore possessed, to effect that end."

His Majesty's Government will eagerly avail themselves of any probable chance of bringing to a satisfactory settlement a question of such vital consequence to the harmony and good understanding between the two Governments; and the Undersigned is instructed to lose no time in endeavouring to ascertain from Mr. Livingston, in the first place, what is the principle of the plan of boundary which the American Government appear to contemplate as likely to be more convenient to both parties than those hitherto discussed; and secondly, whether any, and what arrangement, such as Mr. Livingston alludes to, for avoiding the constitutional difficulty, has yet been concluded between the General Government and the State of Maine.

It is necessary that His Majesty's Government should be informed of the basis on which it is proposed to negotiate, before they can either entertain the proposal, or decide upon the instructions which it may be necessary to give to the Minister to whom the negotiation, when agreed to, may be entrusted; and it is especially essential, that His Majesty should be previously assured, that the President of the United States will possess the power of carrying into full effect his part of any engagement which may be concluded between the Plenipotentiaries of the two Governments.

The Undersigned is directed to assure the American Minister, in making these communications to him, that if His Majesty's Government shall be enabled, upon receiving satisfactory explanations on the points which have just been mentioned, to acquiesce in the proposition of the American Government, they will enter upon the negotiation, which may then be opened in the most friendly spirit, and with the most sincere desire to arrive at a settlement mutually beneficial to both countries; and he is further to assure the Secretary of State, that His Majesty's Government entirely concur with that of the United States, in the principle of continuing to abstain, during the progress of the negotiation, from extending the exercise of jurisdiction within the disputed territory beyond the limits within which it has hitherto been usually exercised by the authorities of either party.

It is due, however, to the frankness which His Majesty desires should characterize every communication between the British and American Governments, that the Undersigned has received the orders of his court distinctly to declare, in answer to that part of Mr. Livingston's note, in which he expresses, for the first time, the wish of the American Government to connect, with the discussion of the boundary question, that of the navigation of the river St. John, that it will be impossible for His Majesty to admit the principle upon which it is attempted to treat these two questions as necessarily connected with each other. Whatever might be the eventual decision of His Majesty upon the latter question, if treated separately; and whatever may be His Majesty's disposition to promote the harmony, so happily subsisting between the two countries, by any arrangements which might tend to the convenience of the citizens of the United States, without being prejudicial to the essential interests of his own subjects, His Majesty cannot admit any claim of right on the part of the citizens of Maine to the navigation of the St. John; nor can he consider a negotiation on that point as necessarily growing out of the question of boundary.

His Majesty cannot, therefore, consent to embarrass the negotiation respecting the boundary, by mixing up with it a discussion respecting the navigation of the river St. John, as an integral part of the same question.

The Undersigned, &c.

(Signed) CHAS. R. VAUGHAN.

*The Hon. Edward Livingston,*  
 &c.      &c.      &c.

Inclosure 2 in No. 24.

*The Hon. Edward Livingston to Sir C. R. Vaughan.*

*Department of State, Washington, April 30, 1833.*

THE Undersigned, &c. has had the honor to receive from Sir Charles Vaughan, &c., his note of the 14th instant, communicating the substance of the instructions given by His Britannic Majesty's Government, in relation to the disputed question of the boundary between the United States and the British Province of New Brunswick; and has laid the same before the President, who has directed the Undersigned to say, that he sees with great pleasure that the British Government concurs, with that of the United States, in the position, that His Netherland Majesty had not decided the question submitted to him, since by Sir C. Vaughan's note it is acknowledged, "that the arbitrator, furnished by each claimant with every fact and argument that had been adduced on either side of the question, had declared the impossibility of tracing, in conformity with the description contained in the Treaty of 1783," the boundary line in question; and as the determination of that line, according to the Treaty of 1783, was the only question submitted to the august arbitrator, and he having declared that he found it impossible to trace it in conformity with the Treaty, it follows, that his inability to decide the point submitted to him, leaves the high parties to the submission, precisely in the situation in which they were, prior to the selection of His Netherland Majesty to be the arbitrator between them; that is to say, they are thrown back to the Convention of the 29th September, 1827. By that Convention it was agreed to submit the question, which was the true boundary according to the Treaty of 1783, to the decision of an arbitrator to be chosen between them. The arbitrator selected having declared himself unable to perform the trust, it is as if none had been selected, and it would seem as if the parties to the submission were bound by their contract to select another; but this would be useless, if the position assumed by the Government of His Britannic Majesty be correct, "that it would be utterly hopeless at this time of day to attempt to find out, by means of a new negotiation, an assumed line of boundary, which successive negotiators, and which commissioners employed on the spot have, during so many years, failed to discover." The American Government, however, while they acknowledge that the task is not without its difficulties, do not consider its execution as hopeless. They still trust that a negotiation opened and conducted in a spirit of frankness, and with a sincere desire to put an end to one of the few questions which divide two nations, whose mutual interest it will always be to cultivate the relations of amity, and a cordial good understanding with each other, may, contrary to the anticipations of His Britannic Majesty's Government, yet have a happy result; but if this should unfortunately fail, other means, still untried, remain. It was, perhaps, natural to suppose, that negotiators of the two powers coming to the discussion with honest prejudices, each in favor of the construction adopted by his own nation, on a matter of great import to both, should separate without coming to a decision. The same observations may apply to commissioners, citizens, or subjects of the contending parties, not having an impartial umpire to decide between them: and, although the selection of a sovereign arbiter would seem to have avoided these difficulties, yet this advantage may have been more than counterbalanced by the want of local knowledge. All the disadvantages of these modes of settlement, heretofore adopted, might, as it appears to the American Government, be avoided, by appointing a new commission, consisting of an equal number of commissioners, with an umpire selected by some friendly Sovereign, from among the most skilful men in Europe, to decide on all points on which they disagree, or by a commission entirely composed of such men, so selected, to be attended in the survey and view of the country, by agents appointed by the parties. Impartiality, local knowledge, and high professional skill would thus be employed, which, although heretofore separately called into the service, have never before been combined for the solution of the question. This is one mode; and perhaps others might occur in the course of the discussion, should the negotiators fail in agreeing on the true boundary. An opinion, however, is entertained, and has been hereinbefore expressed, that a view of the subject, not hitherto taken, might lead to another and more favorable result.

A free disclosure of this view might, according to the dictates of ordinary diplomacy, with more propriety, perhaps, be deferred until those of His Britannic



Majesty's Government should be more fully known, or, at least, until that Government had consented to open a negotiation for determining the boundary ; but the plain dealing with which the President desires, this and all his other communications with Foreign Governments to be conducted, has induced a developement of the principle for the consideration of His Britannic Majesty's Government.

Boundaries of tracts and countries, where the region through which the line is to pass, is unexplored, are frequently designated by natural objects, the precise situation of which is not known, but which are supposed to be in the direction of a particular point of the compass. Where the natural object is found in the designated direction, no question can arise. Where the course will not touch the natural boundary, the rule universally adopted is, not to consider the boundary as one impossible to be traced ; but to preserve the natural boundary, and to reach it by the nearest direct course. Thus, if after more accurate surveys shall have been made, it should be found that the north course from the head of the St. Croix should not reach the highlands, which answer the description of those designated in the Treaty of 1783,—then a direct line from the head of the St. Croix, whatever may be its direction to such highlands, ought to be adopted, and the line would still be conformable to the Treaty.

As this principle does not seem hitherto to have been adopted, it appears to the Government of the United States to offer to the commissioners, who may be appointed, the means of an amicable adjustment.

When the note of the Undersigned to Mr. Bankhead in July last, was written, reasonable hopes were entertained that the arrangement therein spoken of, by which the Government of the United States might be enabled to treat for a more convenient boundary, would, ere this, have taken place. The anticipations then entertained have not, as yet, been realized, and the Government of the United States can only, in the present state of things, treat on the basis of the establishment of the boundary presented by the Treaty.

As the suggestion in relation to the navigation of the St. John was introduced only in the view of its forming a part of the system of compensations in the negotiation for a more convenient boundary, if that of the Treaty of 1783 should be abandoned, it is not now insisted on.

In conclusion, the President has remarked with sincere pleasure in Sir C. Vaughan's note, the expression of a desire on the part of his Government, to cultivate and increase the harmony and good understanding which so happily subsist between the two countries, and to put an end to all questions that may, in the least degree, interrupt it, a disposition which is warmly reciprocated by the President.

The Undersigned, &c.

*Right Hon. Sir C. R. Vaughan,*  
*&c.      &c.      &c.*

(Signed) EDWARD LIVINGSTON.

Inclosure 3 in No. 24.

*Sir C. R. Vaughan to the Hon. Edward Livingston.*

*Washington, May 11, 1833.*

THE Undersigned &c., has the honour to acknowledge the receipt on the 5th instant, of the note of the Secretary of State of the United States, dated the 30th April, in answer to the communication made by the undersigned, of the instructions which he has received from his Government, relative to the disputed boundary, and he begs leave to make some observations, before he submits it to the consideration of the British Government.

With regard to the entire concurrence of the British Government with that of the United States, in the position, that His Netherland Majesty has not decided the question submitted to him, because he had declared it impossible to trace the boundary according to the Treaty of 1783, though both Governments must agree in the impossibility of tracing a boundary line, by the defective description of it in that Treaty, the two Governments took very different views of the nature of the obligations which they had incurred in common, under the Convention of Arbitration. Great Britain felt bound to accept the award of the arbitrator, who suggested a line of boundary, having been unable to trace that described in the Treaty, notwithstanding that the acceptance, would cause a great sacrifice of territory,

hitherto considered as belonging to the British Crown. According to the note of Mr. Livingston of the 21st July, 1832, the Senate of the United States, "determined not to consider the decision of the King of the Netherlands as obligatory, and they refused to advise and consent to its execution,"

This rejection of the decision of the arbitrator by the Government of the United States, has thrown the parties, as Mr. Livingston observes, into the situation in which they were, prior to the selection of His Netherland Majesty to be the arbitrator between them. It may be observed also, that though the tracing of the boundary line according to the Treaty of 1783, appeared from the statements delivered by the respective parties, to be the principal object of arbitration, the King of the Netherlands was invited in general terms "to be pleased to take upon himself the office of arbitration of the difference between the two Governments."

It was a measure adopted in order to put an end to tedious and unsatisfactory negotiations which had occupied the attention of the two Governments for more than forty years, and by the VIIth Article of the Convention it was agreed, "that the decision of the arbiter when given, shall be taken as *final and conclusive*, and shall be carried without reserve into immediate effect."

The Undersigned cannot but regret the rejection of the decision of the King of the Netherlands, when he sees throughout the note of Mr. Livingston, all the difficulties which attend the endeavours of the two Governments, actuated by the most frank and friendly spirit, to devise any reasonable means of settling this question.

Mr. Livingston seems to be persuaded that a renewed negotiation may yet have a happy result, and the Undersigned observes with satisfaction, that the Government of the United States has consented not now to insist upon the navigation of the St. John's River, a claim which the British Government refused to consider in connection with the boundary question.

But the arrangement in progress last summer having failed, which was to result in enabling the Government of the United States to treat for a more convenient boundary, that Government in the present state of things can only treat on the basis of the establishment of the boundary presented by the Treaty.

The Undersigned is convinced, that it is hopeless to expect a favourable result from a renewed negotiation upon that basis. With regard to Mr. Livingston's proposal, that in the event of negotiation failing, the two Governments may have recourse to a commission of boundary, composed of equal numbers selected by each party, to be attended by an umpire, chosen by a friendly Sovereign, to decide at once all disputed points,—or that a commission of some of the most skillful men in Europe should be selected by a friendly Sovereign, and should be sent to view and survey the disputed territory, attended by agents appointed by the parties,—the Undersigned can only express his conviction, that after the expence, delay, and unsatisfactory result of the commission of boundary under the Vth Article of the Treaty of Ghent, it must be with great reluctance that the British Government consents to have recourse to such a measure.

He does not conceive that it would be an easy task, to engage in such a service, all the impartiality, local knowledge, and high professional skill, "which it would be necessary to combine for the solution of the question" to be submitted, which either the umpire in one instance, or the commission of scientific persons in the other, were to decide peremptorily.

The Undersigned does not sufficiently comprehend the other view which Mr. Livingston has partially developed in his note, and which the latter conceives might lead to a more favourable result; it seems applicable to the manner in which the line due north from the sources of the St. Croix River may be drawn, in conformity with the Treaty of 1783, though not strictly according to the terms in which that Article is drawn up. The natural feature of the boundary which Mr. Livingston supposes to exist, and to which the line in question is to be drawn, it is presumed are the highlands mentioned in the Treaty, the fixing the position of which highlands has formed the principal difficulty hitherto in adjusting the boundary. A deviation from the direct north line laid down in the Treaty, might lead to an oblique line being drawn to mountains to the eastward of it, which would trench upon His Majesty's territories of New Brunswick.

The Undersigned does not however venture, with the imperfect knowledge which he has of all the bearings of the view developed by Mr. Livingston, to do more than suggest a doubt of its advantages. The rejection of the award of the



arbitrator, by the Government of the United States, revives to their full extent, the pretensions of Great Britain, and it becomes an object of great importance to put an end to this question of boundary; "one of the few questions," as Mr. Livingston observes, "which divide two nations, whose mutual interest it will always be, to cultivate the relations of amity and a cordial good understanding with each other."

It is the duty of the Undersigned to transmit to his Government immediately, the note of Mr. Livingston, but at the same time he cannot resist from inviting the Secretary of State of the United States, to offer, without waiting the result of that reference, some more prompt and effective measure for the settlement of the boundary than the renewal of a negotiation on an inadmissible basis, or recourse again to commissions of boundary, which though upon an improved plan, so far as the insuring of a final result may be concerned, are too complicated in their nature to bring about a speedy or a satisfactory decision.

The Undersigned, &c.,

*The Hon. Edward Livingston,*  
 &c.      &c.      &c.

(Signed)

CHAS. R. VAUGHAN.

No. 25.

*Sir C. R. Vaughan to Viscount Palmerston.—(Received June 27.)*

(Extract.)

*Washington, June 4, 1833.*

BEFORE Mr. Livingston gave up the Department of State to Mr. McLane, he sent to me his promised explanation of the proposition for settling the boundary, which he partially developed in his note of 30th April, enclosed in my despatch of May 13.

I have the honour to enclose a copy of the note of Mr. Livingston, which will shew your Lordship that he conceives that a line drawn obliquely westward from the source of the St. Croix, instead of directly due north, which has alone been followed hitherto, in search of the highlands of the Treaty of 1783, may lead to highlands which shall answer the description in that Treaty of dividing waters falling into the Atlantic, from those falling into the river St. Lawrence, and thereby enable the President at once to fix that line as the boundary.

Mr. Livingston proposes that a joint commission, constituted in either of the modes he mentioned in his note of 30th April, should be sent to explore the country on the line, the general bearings of which he has described by a diagram which is contained in his note.

The Government of the United States being restricted to treat only upon the terms of the Treaty of 1783, on account of constitutional difficulties which both Mr. Livingston and Mr. McLane declare to be insurmountable, the proposition of Mr. Livingston may be received as shewing the anxious desire of the President to devise some mode by which the question of boundary may be finally settled.

It was proposed by Mr. Livingston in his note of 30th April, to have recourse to commissions, should a renewed negotiation fail to settle the question in dispute. The answer to the demand of the British Government for farther explanations, before they could entertain the offer of the President to open a new negotiation, is, that as the arrangements in progress last summer, to remove the constitutional difficulties, have not been made, the Government of the United States can treat only on the basis of the Treaty of 1783, which the British Government has stated to be hopeless and inadmissible;—a negotiation, therefore, between the two Governments, is not likely to take place.

It remains then for the British Government to decide whether it will accede to the proposition of Mr. Livingston. The relief which it offers from the restrictions imposed upon the President by constitutional difficulties, consists in drawing the line from the monument, westward, and obliquely, instead of due north; from whence it may be implied, that it would result in a more advantageous boundary to Great Britain, than that offered by the due north line, by the cession of the territory included in the angle formed by the direct and the oblique line.

When Mr. Livingston pointed out to me his imaginary line upon a small

map, I concluded that it would terminate north of the St. John, but far westward of the St. Francis River, thereby offering a more advantageous boundary to Great Britain than the line proposed by the King of the Netherlands. In a conversation since with Mr. McLane, and with a better map before us, I was induced to believe, that the special commission might rather be directed to explore, in search of highlands, the line of boundary laid down by the American commissioners under the Vth Article of the Treaty of Ghent. Great Britain might thus be placed, by accepting Mr. Livingston's proposition, in a worse position than that which they were willing to accept, by acquiescing as they thought they were bound to do, and at a great sacrifice of territory, in the award of the arbiter. In my answer, therefore, to the explanation of Mr. Livingston, a copy of which I have the honour to enclose, I have thought it right to enquire what may be the intended course to be pointed out to the special commission. The obscurity in which the position of the highlands still remains, throws some difficulty in the way of acceding to Mr. Livingston's proposed plan without farther explanation.

We cannot predict where our assent to this proposition may lead us. It is not probable that the Americans will ever be brought to consent to draw a line from the St. Croix, to the only point where the separation of waters can be found accurately in conformity with the Treaty. It is where the Chaudière which falls into the St. Lawrence, is separated from the Kennebec which falls into the Atlantic, westward of the sources of the St. John. If, however, it is true that the American Congress placed the highlands at the sources of the St. John, from the year 1779 to 1782, it is fair to conjecture that this was the position of the highlands contemplated by the commissioners who framed the Treaty of 1783.

In my note to Mr. McLane, acknowledging the receipt of Mr. Livingston's explanation, I have stated that the delay occasioned by a reference to His Majesty's Government imposes upon me the obligation of investigating, and calling for farther explanation, before I submit the proposition to your Lordship.

Constitutional difficulties, said to be insurmountable, restrict the President from treating for a boundary more satisfactory to both parties than the one suggested by the King of the Netherlands. The state of Maine chuses to insist upon the whole disputed territory having been vested by the Treaty of 1783, in the United States, according to the construction put upon that Treaty by the people of that State, to whose lot the territory will fall, it being situated on their frontier. Maine denies the power of Congress to dispose of any part of it, by an arrangement with Great Britain; and thus the proposed alteration in the mode of seeking the termination of the boundary according to Treaty, is the only concession we can expect at present from the General Government.

In my correspondence with the Department of State, since my return to Washington, upon the subject of boundary, I have been anxious to shew that it is hopeless to entertain the offer to negotiate, restricted as the American Government is, to an inadmissible basis. I have endeavored in my last note of the 31st May, which is enclosed, to shew that the line of boundary laid down by the negotiators in the Treaty, was imaginary, from their ignorance at that time of the actual geography of the country, which is proved by the numerous commissions which have been appointed since its conclusion, to ascertain what was the line which was laid down by them. A strict adherence to the acknowledged defects of that Treaty, must render the settlement of the boundary an interminable question.

I have stated that the rejection of the award of the arbiter by the Government of the United States leaves it to Great Britain to maintain the claims and pretensions to be found in the British statements laid before the arbiter. If we are to treat at any time for a conventional line of boundary, I am of opinion that the one best defined would be, from where a line due north from the St. Croix would strike the St. John's river, and thence along its right bank to its source. This line would fairly divide the disputed territory between the two parties, and Great Britain would not object to giving up some settlements made by the Americans, as I have been given to understand, upon the Connecticut River, which would have fallen into the possession of His Majesty, if the line of the King of the Netherlands had been accepted.

I do not know whether I shall receive from Mr. McLane any explanation of the presumed termination of the line to be explored by a special commission,



as proposed by Mr. Livingston, which may induce His Majesty's Government to accede to the proposition, encumbered as it is with a difficulty attending the selection of commissioners, and accompanied as it must be, with delay and expence. It must be recollected that it is made by the President in a spirit of conciliation ; and should it fail to accomplish the object intended, the necessity of abandoning the defective description of the boundary in the Treaty of 1783, will be so obvious, that the restrictions upon the President must be got the better of, and the Government of the United States must agree to treat for a conventional boundary. This Government will not at present listen to any proposal which deviates from the terms of the Treaty of 1783.

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Inclosure 1. in No. 25.

*The Hon. Edward Livingston to Sir C. R. Vaughan.*

Sir,

*Department of State, Washington, May 28, 1833.*

IN the two conversations we have had, on the 13th and 27th instant, you requested some further developement of the propositions contained in my note of the 30th April.

The principal object of that note was to shew, that the failure of the several endeavors which had been made, to ascertain the true boundary between the United States and the British Provinces of New Brunswick and Lower Canada, ought not, as is thought by His Britannic Majesty's Government, to be attributed to any insuperable difficulty, but rather to the inefficiency of the means heretofore resorted to, in order to secure such a decision as should be binding on both parties, and to the want of attention by the commissioners and arbiter severally employed for that purpose, to an established rule in the settlement of boundaries.

The first point seems to be fully explained in my note above referred to, and I repeat, that the President will agree to either of the modes therein suggested, to secure a final decision of the question. The reasons why, under the present circumstances, he cannot undertake to negotiate upon any other basis than that of the Treaty of 1783, drawn from the nature of our Government, were fully explained to you in those conversations ; and the probability of ascertaining the boundary according to that Treaty, by applying the principle, to which I perhaps too briefly alluded in my note, was farther developed. That you may present it in a more precise form to your Government, I now repeat the substance of my observations.

The boundary as far as the head of the St. Croix is ascertained and agreed upon by both nations. The monument erected there is then a fixed point of departure. From thence we have a two-fold description of boundary ; a line in a certain direction, and a natural object to which it was supposed a line in that direction would lead, "A line from the source of the river St. Croix directly " north," and "the highlands which divide the waters that flow into the " Atlantic Ocean, from those which flow into the river St. Lawrence." The American Government have believed that these two descriptions would coincide, that is to say, that the highlands designated by the Treaty, would be reached by a north line drawn from the head of the St. Croix ; they make no pretensions farther east than that line, but if, on a more accurate survey, it should be found that the north line mentioned in the Treaty, should pass east of the highlands therein described, and that they should be found at some point further west, then the principle to which I refer would apply, to wit, that the direction of the line to connect the two natural boundaries, must be altered so as to suit their ascertained positions. Thus in the annexed diagram, suppose A. the monument at the head of the St. Croix, A. B. the north line drawn from thence. If the highlands described in the Treaty should be found in the course of that line, both the descriptions in the Treaty would be found to coincide, and the question would be at an end. If on the contrary those highlands, should be found at C. or D., or at any other point west of that line, then the eastern boundary of the United States would be the line A. C., or A. D., or any other line drawn directly from the point A., to the place which should be found to answer the description of the highlands mentioned in the Treaty.

This being fully understood, the President is willing, in order to simplify the operation, that the commission shall be restricted to the simple question,

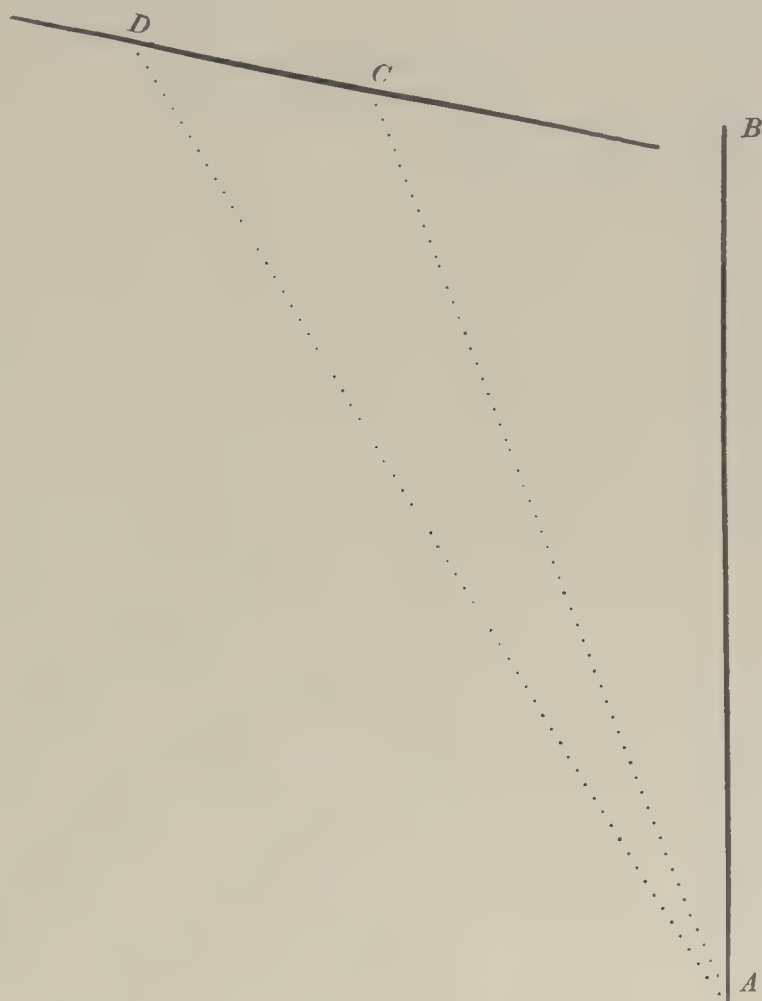
of determining the point designated by the Treaty as the highlands which divide the waters, to which point a strait line shall be drawn from the monument : and that this line shall, as far as it extends, form part of the boundary in question. That they shall then designate the course of the line along the highlands, and fix on the point designated as the north-westernmost head of the Connecticut River.

It will be obvious to you, Sir, that until a survey and decision shall be had, in one of the modes pointed out in my note, or in some other to be agreed on, the President cannot designate any line which he would be willing to adopt as the boundary ; but he directs me to repeat his firm persuasion, that a speedy and satisfactory arrangement may be made, by a negotiation carried on by both parties in the spirit of conciliation, by which he is actuated, and which he has not the least doubt, will direct the Government of His Britannic Majesty.

I have the honor to be, &c.

*Rt. Hon. Sir C. R. Vaughan.*  
 &c.      &c.      &c.

(Signed) EDWARD LIVINGSTON.



Inclosure 2. in No. 25.

*Sir C. R. Vaughan to the Hon. Louis McLane.*

*Washington, May 31, 1833.*

THE Undersigned, &c., has the honour to acknowledge the receipt of a note from Mr. Livingston, dated 28th May, previously to the appointment of Mr. McLane as Secretary of State, for the United States, explaining a proposition made by the former, in a note dated 30th April, relative to a new manner in which the boundary line might be traced, between the possessions of His Majesty and those of the United States.

The Undersigned observes with great satisfaction, the desire of the Government of the United States, as manifested in the proposal of Mr. Livingston, to devise some mode by which the question of boundary may be finally settled, but he at the same time regrets, that he cannot anticipate the favourable result expected by Mr. Livingston, should the two Governments adopt his proposal.



The Undersigned is lead to believe, after the communications which he has lately had, both with Mr. Livingston and Mr. McLane, that insuperable constitutional difficulties impose upon the Government of the United States, a restriction to treat only of a line of boundary according to the terms of the Treaty of 1783; that the only deviation, therefore, which can be admitted in tracing the boundary from the strict terms of the Treaty, is an abandonment of the direct due north line from the St. Croix, which has been hitherto followed in search of the highlands of the Treaty, and a permission to be given to a joint commission (to be sent expressly to examine the country) to follow an oblique line to the westward of the direct north line, until they shall meet with highlands answering the description given of them in the Treaty, as dividing waters falling into the Atlantic, from those which fall into the river St. Lawrence. A line drawn to them wherever they may be found, from the monument at the source of the St. Croix, would be such a compliance with the description of the boundary laid down in the Treaty, as to remove all constitutional difficulties in the way of the Government of the United States, and enable it to fix that line as the line of boundary.

It is not for the Undersigned to discuss the nature of the constitutional difficulties mentioned by Mr. Livingston. It is to be lamented that they are stated to be insurmountable, and that the proposition of Mr. Livingston, after a discussion which has occupied the two Governments, from time to time, for upwards of forty years, is the only offer which the British Government can expect to receive from the Government of the United States. It appears to the Undersigned that the time has now arrived, when this perplexed and hitherto interminable question, can only be set at rest by an abandonment of the defective description of boundary contained in the Treaty, by the two Governments mutually agreeing upon a conventional line of boundary, more convenient to both parties, than those insisted upon by the commissioners of boundary, under the Vth Article of the Treaty of Ghent, or the line suggested by the King of the Netherlands.

The proposition of Mr. Livingston very justly provides against any deviation eastward from the direct north line from the St. Croix, but the operation which it contemplates is still so restricted to the terms of the Treaty, that the basis of it is the same as that which the Undersigned has been instructed by his Government to inform the Government of the United States, it was hopeless to negotiate upon. The lines of boundary laid down by the commissioners who framed the Treaty of 1783, may fairly be considered as imaginary, arising from their ignorance, at the time, of the actual geography of the country. The point of departure of the boundary line was not settled until upwards of ten years after it had been so confidently laid down in the Treaty, when a commission under the Treaty of 1794, ascertained what river was to be considered as the St. Croix. In 1814, no less than four commissions were appointed under the Treaty of Ghent, to discover and trace as many portions of the line of boundary laid down in the Treaty of 1783.

The point of departure of the line to be traced according to the proposition of Mr. Livingston is clearly established, but the point at which it is to terminate is left in doubt, and to be decided by the special commission, charged to find out highlands answering to the description in the Treaty, westward of the direct line which has alone been hitherto explored. The Undersigned wishes to be informed what limitations it is intended to put upon the course to be followed by the special commission. The diagram, which is annexed to Mr. Livingston's note, does not explain whether the attention of the commissioners is to be directed to any particular spot, or whether they are to be left at liberty to stop at the first highlands, answering the required description with which they may meet after their departure from the monument. It should be recollected that Great Britain has hitherto insisted upon the highlands of the Treaty of 1783, being sought for exclusively *south* of the St. John's River; and she denies the claim of the United States to any territory north of the St. John's. The omission of all mention of so remarkable a feature in the boundary as the intersection of that river, both in the Treaty and in the accounts extant of the negotiations, justifies the inference that the commissioners who framed that Treaty did not contemplate the existence, *north* of the St. John, of the highlands which they describe.

The Undersigned must here remind the Secretary of State of the United States, that the British Government, by the rejection of the decision of the King of the Netherlands, is at liberty to recur to their former position before the arbitration, and to maintain the claims and pretensions they originally established. A strong point in those claims is the exclusive possession of the St. John; nor

must it be inferred that Great Britain, by having expressed a willingness to accept the line of boundary suggested by the arbiter, which intersected the St. John, is in any shape prepared now to surrender that claim without a due equivalent.

The Undersigned begs leave to observe, that the impression left upon his mind after his conversation with Mr. Livingston, and the production by him of a map upon a small scale, is, that the highlands to be sought in the manner he proposed, would probably be found north of the St. John, but some miles westward of the River St. Francis. A subsequent conversation with Mr. McLane left the impression that the special commission would have their attention directed to an examination of the country along the line assumed as the boundary by the American commissioners under the Treaty of Ghent.

The delay occasioned by a reference to his Government imposes upon the Undersigned the obligation of endeavouring to investigate fully, and to seek every explanation of this proposition made by Mr. Livingston, as a means of settling the question of boundary, before he submits it to the consideration of His Majesty's Government. From what has been already stated in this note, the Undersigned will be happy to receive from Mr. McLane some farther explanation of the course intended to be pointed out to the special commissioners, who, he takes it for granted, are to be appointed in one of the two forms stated by Mr. Livingston in his note of 30th April. If it is in the contemplation of the American Government to seek the highlands north of the St. John, and upon the line assumed by the American Commissioners under the Treaty of Ghent, the assent of the British Government to the proposition of Mr. Livingston, would concede to the Government of the United States, nearly all that they have hitherto claimed, and place the British Government in an infinitely worse position than they were willing to accept at a great sacrifice of territory, by acquiescing, as they thought themselves bound to do, in the award of the arbiter. The obscurity which, after all the endeavours of the two Governments, still rests upon the position of the highlands, the Secretary of State, will allow, throws some difficulty, without farther explanation, in the way of acceding to the proposition of Mr. Livingston.

*The Hon. Louis McLane.*  
 &c. &c. &c.

The Undersigned requests, &c.  
 (Signed) CHAS. R. VAUGHAN.

No. 26.

*Sir C. R. Vaughan to Viscount Palmerston.—(Received July 9)*

(Extract)

*Washington, June 12, 1833.*

I HAVE now the honor to enclose a copy of a note which I have received from Mr. McLane, the Secretary of State, in answer to the further explanations of Mr. Livingston's proposition, which I requested in a note, dated 31st May, transmitted to your Lordship in my despatch of June 4.

Mr. McLane informs me in the enclosed note, that the President readily directed such farther explanations to be given, as might render that proposition explicit and intelligible; that no limitations are to be put upon the special commissioners, but such as are required by a faithful adherence to the description of boundary in the Treaty of 1783; that wherever highlands may be found answering to the description of them in the Treaty, in any part of the disputed territory, whether north or south of the river St. John, a line is to be drawn to that point upon them, from the monument at the source of the St. Croix, which shall be nearest to the direct north line from that river.

Mr. McLane observes, that Mr. Livingston, in his note of 28th May, has provided against any deviation eastward.

I have acknowledged the receipt of Mr. McLane's further explanations, in a note, a copy of which is enclosed, and I have promised to submit the proposition to the consideration of His Majesty's Government.

Your Lordship will be aware that, in my correspondence with the American Government, I have distinctly stated, according to my instructions, that it appears to His Majesty's Government to be utterly hopeless to attempt to find out, at this time of day, by means of a new negotiation, the line of boundary in conformity with the description contained in the Treaty of 1783. Mr. Livingston and Mr. McLane agree in considering the difficulty to arise more from the



principle hitherto assumed, and the manner pursued in seeking for it, than in any defect in the description.

Mr. McLane states in the enclosed note, that a conventional line of boundary, south of the true line of the Treaty, would deprive the State of Maine of territory, and it could not therefore be adopted, unless on grounds of greater public necessity than at present exist, without the consent of that State, which it is not probable would be given while there remains a reasonable prospect of discovering the line of boundary of the Treaty of 1783, and without such consent, the President, after the proceedings of the Senate last year, is not authorised to agree to a conventional line.

The restrictions, therefore, imposed upon the President, render it hopeless to seek to adjust the boundary by consenting to accept the offer to open a new negotiation.

It is now proposed by the President, that the two Governments shall have recourse to a new commission upon a new principle, that of exploring the disputed territory in search of highlands separating waters according to the Treaty, any where westward of the due north line, which has been alone explored hitherto.

This proposition seems to be the only offer we can expect for settling the boundary until the President is released from the restrictions imposed upon him by the Senate. I am convinced that it is made in a sincere spirit of conciliation which makes it difficult to reject it, but upon clear grounds of inexpediency, from a conviction that the result could not be satisfactory.

Inclosure 1 in No. 26.

*The Hon. Louis McLane to Sir C. R. Vaughan.*

*Department of State, Washington, June 5, 1833.*

THE Undersigned, &c., has the honor to acknowledge the receipt of a note from Sir C. Vaughan, &c., dated 31st May, requesting farther explanations of the proposition made by Mr. Livingston in his note of the 30th April, and by him farther explained in that of 28th May, relative to a new manner in which the boundary line might be traced between the possessions of the United States, and of His Britannic Majesty's Government on the north-eastern frontier.

The Undersigned has submitted Sir C. Vaughan's note to the President, and has the honor to state, that anxiously desiring finally to settle this question of boundary, and entertaining the fullest confidence that the proposal already made under his direction, will accomplish that object satisfactorily to both nations, the President readily directs such further explanations to be given as will render that proposition entirely explicit and intelligible.

The Undersigned concurs with Sir C. Vaughan in avoiding at this time any particular discussion of those constitutional difficulties which restrict the United States to a line of boundary according to the Treaty of 1783, more especially as they have been recently explained to Sir C. Vaughan, and must be well understood by him.

In regard, however, to the suggestion of Sir C. Vaughan, that the time has now arrived when this perplexed and hitherto interminable question can only be set at rest by an abandonment of the defective description of boundary contained in the Treaty, by the two Governments mutually agreeing upon a conventional line of boundary more convenient to both parties than that insisted upon by the Commissioners under the Vth Article of the Treaty of Ghent, or the line suggested by the King of the Netherlands, it may be proper to remark, that the embarrassments in tracing the boundary in the Treaty of 1783, arose more from the principles assumed, and the manner pursued in seeking for it, than from any real defect in the description when properly understood; and that in the present state of this business, the suggestion of Sir Charles Vaughan would rather add to than obviate the constitutional difficulties already insuperable.

These difficulties arise from a denial of the power of the General Government, under the constitution of the United States, to dispose of any portion of territory belonging to either of the States composing the Union.

The territory of the State of Maine is supposed to comprehend all the land which would be thrown within her limits, by establishing the true line of the Treaty of 1783; and as any conventional line south of the true line of the Treaty

would deprive her of so much of her territory, it could not be adopted unless on grounds of greater public necessity than at present exists, without the consent of that State. It is not probable that such consent would be given by the State of Maine while there remained a reasonable prospect of discovering the line of the Treaty of 1783, and for the same reason the President would not be authorized, after the recent proceedings in the Senate, to venture now to agree upon a conventional line without such consent.

Under these circumstances, the President directed the proposition submitted in Mr. Livingston's note of 30th April, as affording not only a reasonable prospect, but in his mind the certain means of ascertaining the boundary called for by the Treaty of 1783, and of finally terminating all the perplexities which have encompassed this subject.

In reply, therefore, to the wish expressed by Sir C. Vaughan to be informed what limitations it is intended to be put upon the course to be pursued by the special commissioners, whether their attention is to be directed to any particular spot, or whether they are to be left at liberty to stop at the first highlands answering the required description with which they may meet after their departure from the monument, the Undersigned has the honor to state, that it is not expected that any limitations will be put upon the course to be pursued by the special commissioners, but such as are required by a faithful adherence to the description of boundary in the Treaty of 1783.

It is true that Great Britain has hitherto insisted upon the highlands of the Treaty of 1783 being sought for exclusively south of the St. John River, but it is also true that the United States have, with equal confidence and pertinacity, insisted upon seeking for them exclusively north of that river.

It is the difficulty of reconciling these conflicting pretensions which has hitherto prevented the settlement of the boundary question, arising chiefly, however, from the impracticability of finding a point of highlands answering the description in the Treaty to which a line due north from the monument could be drawn.

It is now proposed, therefore, to make another effort, and by means which heretofore have not been tried to overcome this difficulty, and discarding the due north line, should that become necessary, to seek for and find, in the first place, "the highlands which divide those rivers that empty themselves into the St. Lawrence, from those which fall into the Atlantic Ocean;" and when these shall be found in any part of the disputed territory, north or south of the St. John's River, to draw a line from the monument to the said highlands, and to that point thereof which shall be nearest to a due north line from the monument. Mr. Livingston, in his note of 28th May, has already provided against any deviation eastward from the direct north line from the St. Croix.

The Undersigned, &c.,

(Signed)

LOUIS McLANE.

*Rt. Hon. Sir C. R. Vaughan,*  
*&c. &c. &c.*

Inclosure 2 in No. 26.

*Sir C. R. Vaughan to the Hon. Louis McLane.*

*Washington, June 6, 1833.*

THE Undersigned, &c., hastens to acknowledge the receipt of the note of the Secretary of State of the United States, affording him the further explanation which he thought it his duty to require, of the proposition made by Mr. Livingston for settling the boundary.

The Undersigned begs leave to express his satisfaction upon learning that the President directed an immediate answer to be given to his enquiries, and an assurance that no limitations are to be put upon the course of the proposed commission, which is to endeavour to find highlands separating waters as described in the Treaty of 1783, in any part of the disputed territory, north or south of the St. John.

The Undersigned will lose no time in submitting the proposition made by the Government of the United States to His Majesty's Government; as the President, it appears from Mr. McLane's note, is not authorized, after the recent proceedings in the Senate, to agree upon a conventional line of boundary



without the consent of the state of Maine, which it is not probable would be given, while there remains a reasonable prospect of discovering the line of the Treaty of 1783.

*The Hon. Louis McLane.*  
&c.      &c.      &c.

The Undersigned, &c.  
(Signed) CHAS. R. VAUGHAN.

No. 27.

*Sir C. R. Vaughan to Viscount Palmerston.—(Received July 18.)*

My Lord,

*Washington, June 20, 1833.*

THE President of the United States having left Washington on a visit to the northern states, I apprehend that, though Mr. McLane, the Secretary of State, has returned to Washington, all further discussion of the boundary question will be suspended until His Majesty's Government reply to the proposition originally made by Mr. Livingston, and which I have already submitted to the consideration of your Lordship.

I am convinced by what has passed between myself and Mr. McLane, that the President is very anxious to bring the boundary question to a settlement. How far that object is likely to be attained by the only proposal that he at present feels himself at liberty to make, it is for your Lordship to decide.

It appears from the correspondence which I have had the honour to transmit to your Lordship, that insurmountable constitutional difficulties restrict the government of the United States to treat only for a boundary according to the description of it in the Treaty of 1783. Negotiation being hopeless upon such a basis, it is now proposed to have recourse to a joint commission to examine the country in a direction not strictly according to the letter of the Treaty, but in hopes of being able to terminate the line from the St. Croix, upon highlands which may answer to the description of them in the Treaty.

It appears from the note of Mr. Livingston of July last, and of Mr. McLane of the 5th instant, that restrictions have been imposed upon the President in compliance with the pretensions of the State of Maine, which lays claim to the whole of the disputed territory.

Maine was detached from Massachusetts, and admitted as a separate State into the Union, on the 15th March, 1820; and from its local position it has acquired all the rights over the disputed territory which belonged to Massachusetts, one of the thirteen confederates of the revolution.

It cannot be expected that Great Britain should admit the pretensions of the State of Maine to a territory which has never yet, since the conclusion of the Treaty of 1783, been vested in the United States, as it has never been ascertained to the satisfaction of both parties, what portion of it, in conformity with the terms of that Treaty, ought to be set apart from the possession of the British Crown.

To admit the pretensions of Maine, would be to allow the defects of the Treaty to be construed entirely to the advantage of the United States. The compact by Treaty which made the thirteen colonies a new nation, was between the General Government of that nation and Great Britain. The cession in the Treaty, so far as it concerns the north-eastern boundary of the United States was conditional, and made to depend upon ascertaining the true line of boundary designated in the Treaty. It is surely, therefore, for the two Governments to remedy any defects in their original contract, and to carry it into complete execution without reference to the pretensions of any particular State.

The constitution of the United States gave to Congress the power "to dispose of and make all needful rules and regulations respecting the territory of the United States;" but it declares also that nothing shall be done to prejudice a particular State. In this last clause, I apprehend, is to be found the constitutional difficulties which have given rise to the restrictions imposed by the Senate upon the President, when directed to treat for the settlement of the boundary.

If the proposition made by the President should be rejected by His Majesty's Government, or fail in attaining the object sought after, nothing can be done until the constitutional difficulties now said to be insurmountable are removed. They may be removed whenever the State of Maine will consent

to leave the general Government unfettered by her pretensions ; but according to Mr. McLane's note, there is no hope of obtaining the consent of Maine, until every means have been tried to trace the boundary according to Treaty ; and the acceptance of the proposition of Mr. Livingston, is recommended on those grounds.

Enough has been done to prove the difficulty of tracing the boundary precisely according to the description of it in the Treaty. When it guaranteed the independence of Massachusetts, it likewise guaranteed to Great Britain the full possession of the province of Nova Scotia. When they were separated, the boundary westward of Nova Scotia, and between that province and Massachusetts, had never been accurately defined, and as the actual geography of the country was not known, the commissioners who framed the Treaty of 1783, could only draw an imaginary line.

A fruitless attempt to correct the defective description of the boundary was made by commissioners under the Vth Article of the Treaty of Ghent. This attempt has been followed by recourse to arbitration, which, according to the Convention, was to have been a final and conclusive measure. The arbiter, furnished by each claimant with every fact and argument that has been adduced on either side of the question, declared the impossibility of tracing the boundary line in conformity with the description contained in the Treaty of 1783. It is utterly impossible to establish a division of the disputed territory according to that Treaty, and yet we are assured that certain insurmountable constitutional difficulties must restrict the Government of the United States to treat only upon that basis.

At the time when His Majesty's Government is called upon to deliberate upon the only deviation from his restrictions which the President feels himself authorized to make, I cannot refrain from submitting to your Lordship these observations upon the pretensions of Maine, which have imposed restrictions upon the powers of the executive, directed to settle this question, and upon the hopelessness of arriving at any satisfactory result, if we are to adhere to the letter of the Treaty.

I have the honour to be, &c.

Viscount Palmerston, G.C.B.

(Signed)

CHAS. R. VAUGHAN.

&c. &c. &c.

#### No. 28.

*Sir C. R. Vaughan to Viscount Palmerston.—(Received August 1.)*

(Extract.)

*Washington, July 4, 1833.*

THE President returned to Washington this morning. During his absence nothing has occurred in my communications with the Secretary of State relative to the boundary question, and it seems to me that all discussion upon that subject will be avoided until the decision of His Majesty's Government shall be known upon the proposition made by Mr. Livingston.

The information, probably, to be found in the Colonial Department, and that which may be acquired from persons well acquainted with the interests of Lower Canada and New Brunswick, will have afforded the means of ascertaining, satisfactorily, the advantages and disadvantages of accepting that proposition.

Though the constitution of the United States holds out to Foreign Powers that Treaties are to be effected by Ministers acting under instructions from the President, yet the Senate is invested with a controul over all subjects arising out of intercourse with Foreign Powers. Their participation in the making of Treaties has generally been limited, since the administration of General Washington, to advising and consenting to ratify a Treaty ; but their agency has been admitted by the President, formerly, by advising on the instructions to be given previously to opening a negotiation. When the Senate, in the month of July last year, advised the rejection of the decision of the King of the Netherlands, they took the initiative in the process of the negotiation which they directed the President to offer to open at Washington for the settlement of the boundary, as they restricted the executive to treat only for a boundary, according to the description in the Treaty of 1783.

I am persuaded that there will be great difficulty in constituting a joint commission upon the plan of Mr. Livingston. To insure proper skill and im-



partiality it should be selected in Europe. From the nature of the country the commissioners can be actively employed only during the summer months; the undertaking will last, therefore, in all probability, more than one year.

Should His Majesty's Government reject the proposition of Mr. Livingston, Mr. McLane has stated that, without the consent of Maine, the General Government cannot treat for a conventional line of boundary. It may be inferred from Mr. McLane's note of 28th May, that the failure of the commission to discover the highlands to be sought after, would give grounds of greater public necessity for that consent than at present exist.

The rejection of Mr. Livingston's proposition, and the impossibility of engaging the Government of the United States to treat for a conventional line, must have the effect, I presume, of leaving the disputed territory in the possession of His Majesty, unless it should still be left at the option of this Government to acquiesce in the boundary suggested by the King of the Netherlands.

It appears to me that the time is arrived when, notwithstanding the insuperable constitutional difficulties in the way of the Government of the United States, the question of boundary must be settled by a mutual concession of pretensions, and by a fair and equitable division of the disputed territory between the two claimants. If the position of that territory is examined, an adjustment of the interests of both parties does not seem to present any difficulty. The intrinsic value of the soil is unknown beyond the timber which covers it. The essential interests of the two Governments consist in its position—in its locality. Great Britain must contend for a secure and uninterrupted communication by the usual and accustomed road between Halifax and Quebec. It must be the interests of the United States to procure as large an extension of territory as possible on the frontier of Maine. It must, likewise, be the interest of both Governments to find out and establish a well defined line of boundary between the possessions of the two nations.

All these objects, it appears to me, would be obtained in the most satisfactory manner, by following the due north line already explored, and fixed from the monument at the source of the St. Croix River to the point where it strikes the St. John, and thence let it be continued along the right bank of that river westward to its sources, and afterwards, by the most direct line, to the sources of the Connecticut.

I conceive that such a boundary would be worth purchasing by the sacrifice of any territory south of the St. John, and westward of the due north line from the St. Croix.

#### No. 29.

*Sir C. R. Vaughan to Viscount Palmerston.—(Received December 5.)*

My Lord,

*Washington, November 12, 1833.*

THE Secretary of State, Mr. McLane, informs me, that the President has expressed an anxious desire to receive before the meeting of Congress, on the 4th of December next, the answer of His Majesty's Government, to the proposal which I had the honour to transmit to your Lordship, to settle the boundary between His Majesty's possessions in North America and those of the United States, by having recourse to a commission of scientific persons, selected in Europe, who should examine the disputed territory, in search of highlands westward of the due north line from the St. Croix already explored, where waters are divided, which fall on the one side into the river St. Lawrence, and on the other into the Atlantic Ocean. The discovery of such highlands would coincide sufficiently with the terms of the Treaty of 1783, to justify the President in fixing the line of boundary, on his own authority, without any intervention of the Senate or any attention to the pretensions of the State of Maine.

I have endeavoured to repress the impatience of the President by stating, that he might rest assured that there was no disposition, on the part of His Majesty's Government, to defer coming to a decision upon any point in agitation between the two Governments; but that the question of boundary had been a subject of controversy between the two nations for fifty years, and the delay in investigating the proposal of the United States might justly be attributed to the

great and important measures of domestic policy, which had occupied His Majesty's Government to a very late period of the present year.

I have the honour to be, &c.

Viscount Palmerston, G.C.B.

(Signed)

CHAS. R. VAUGHAN.

&c. &c. &c.

No. 30.

*Sir C. R. Vaughan to Viscount Palmerston.—(Received January 1, 1834.)*

(Extract.)

*Washington, December 4, 1833.*

THE two Houses of Congress having announced to the President that they were constituted, and ready to receive any communication from him, the annual message, a copy of which I have the honour to enclose, was delivered on the 3rd instant.

With regard to the relations with Great Britain the President observes, that it is gratifying to perceive, that the intercourse between the two people is becoming daily more extensive, and that sentiments of mutual good will justify the hope, that unsettled questions may be satisfactorily terminated and new causes of misunderstanding prevented. He informs the Congress, that the interesting question of their north-eastern boundary is still undecided, but that an answer may be daily looked for, to a proposition submitted to the British Government with the view of establishing the line designated by the Treaty of 1738.

I have always pointed out to the Secretary of State, that the restriction imposed by the Senate upon the President, to treat only for a line according to that Treaty, is one of the great difficulties in settling the boundary; and I have endeavoured to repress the expectation of receiving an answer immediately to the proposition of Mr. Livingston, on account of the complicated manner in which it has been proposed to constitute a commission of scientific persons, to be sent from Europe, to explore a line, deviating only from the defective description in the Treaty of 1783, by permitting a search for highlands, in any direction westward of the due north line from the St. Croix, laid down in that Treaty.

Inclosure in No. 30.

*Extract from the Message of the President of the United States to Congress.  
December 3, 1833.*

WITH Great Britain the interesting question of our north-eastern boundary remains still undecided. A negotiation, however, upon that subject has been renewed since the close of the last Congress, and a proposition has been submitted to the British Government with the view of establishing, in conformity with the resolution of the Senate, the line designated by the Treaty of 1783. Though no definitive answer has been received, it may be daily looked for; and I entertain a hope that the overture may ultimately lead to a satisfactory adjustment of this important matter.

No. 31.

*Viscount Palmerston to Sir C. R. Vaughan.*

Sir,

*Foreign Office, December 21, 1833*

HIS Majesty's Government have given the most attentive and deliberate consideration to the several communications which they have received, through you, from the Government of the United States, upon the important subject of the north-eastern boundary; and I am commanded by His Majesty to instruct you to make the following communication to the American Government in reply.

His Majesty's Government have great pleasure in acknowledging the friendly spirit which pervades the communications of the Government of the United States on this subject. Desirous as His Majesty's Government are to confirm and perpetuate the good understanding which so happily subsists between the two countries, they naturally feel anxious to bring to an amicable adjustment, a question which has so long remained unsettled; and they cannot but flatter themselves



that, through a conciliatory disposition on both sides, the remaining difficulties might be overcome.

His Majesty's Government trust that they gave a proof of this disposition on their part, when they intimated to the Government of the United States, that not only were they prepared to abide, as they consider both parties bound to do, by the decisions of the King of the Netherlands, upon such of the points referred to him upon which he has pronounced a decision ; but that they were willing to agree to the compromise which that Sovereign has recommended, upon the single point on which he found it impossible to make a decision strictly conformable with the terms of the Treaty.

The Government of the United States has not hitherto concurred with that of His Majesty in this respect ; but as such a course of proceeding, on the part of the two Governments, would lead to the speediest and easiest settlement, it is the wish of His Majesty's Government to draw the attention of the American Cabinet to some considerations on this subject, before they advert to the new proposition made to you by Mr. Livingston.

It is manifest that nothing but a sincere spirit of conciliation could induce His Majesty's Government to agree to the adoption of the arrangement recommended by the King of the Netherlands ; because the boundary which he proposes to draw between the two parties, would assign to the United States more than three-fifths of that disputed territory, to the whole of which, according to the terms of the award itself, the title of the United States is defective in the same degree as that of Great Britain.

But it seems important, in the first place, to consider what the reference was, which the two parties agreed to make to the King of the Netherlands, and how far that Sovereign has determined the matters which were submitted for his decision.

Now, that which the two Governments bound themselves to do, by the Convention of the 29th of September, 1827, was, to submit to an arbiter certain " points of difference which had arisen in the settlement of the boundary " between the British and American Dominions," and to abide by his decision on those points of difference ; and they subsequently agreed to name the King of the Netherlands as their arbiter. The arbiter, then, was called upon to determine certain questions ; and if it should appear that he has determined the greater part of the points submitted to him, his decisions on those points cannot be rendered invalid by the mere circumstance that he declares, that one remaining point cannot be decided in any manner that shall be in strict conformity with the words of the Treaty of 1783 ; and that he, consequently, recommends to the two parties a compromise on that particular point.

The main points referred to the King of the Netherlands were the three following :—

1st. Which is the spot designated in the Treaties as the north-west angle of Nova Scotia, and which are the highlands dividing the rivers that empty themselves into the river St. Lawrence, from those falling into the Atlantic Ocean, along which highlands is to be drawn the line of boundary from that angle to the north-west head of the Connecticut River.

2nd. Which is the north-west head of the Connecticut River.

3d. Which is the boundary to be traced from the river Connecticut along the parallel of the forty-fifth degree of north latitude, to the river St. Lawrence, called in the Treaties, Iroquois or Cataraquy.

Now, without adverting for the present to the opinion of the arbiter on the first point, I have to remark that on the second point he has given a positive decision, strictly confined within the limits of the reference, and to which no objection, even of a technical nature, can by possibility be urged.

On the third point also, the arbiter has given a positive decision, and has declared that the forty-fifth degree of latitude should be determined by observation. He has indeed added to this decision a recommendation that Rouse's Point, and a surrounding circle with a radius of one kilometer, shall belong to the United States, whether Rouse's Point be, or be not, included within the territory of the United States according to the boundary to be drawn by astronomical observation ; and His Majesty's Government, in subscribing to the decision of the arbiter on this point, which, like his decision on the second, they consider to be binding on both parties, declares itself willing to accede to the above stated recommendation.

It appears then that, upon two points out of the three, the arbiter has made a plain and positive decision.

Upon the remaining point, he has declared that is impossible to find a spot, or to trace a line, which shall fulfil all the conditions required by the words of the Treaty, for the north-west angle of Nova Scotia, and for the highlands along which the boundary is from that angle to be drawn; and he, consequently, recommends to the two parties a line of boundary, which he considers to be conformable with the spirit of the Treaty, and to approach the most nearly to the probable intention of its framers; and this line the British Government is still willing to adopt.

But though the arbiter has declared that it is not possible to find a north-west angle for Nova Scotia, nor a separating range of highlands, which shall be precisely conformable with the words of the Treaty, yet in the course of his reasoning upon this point, he has decided several questions connected with it, upon which the two parties had entertained different views; and it is the opinion of His Majesty's Government, that the decisions of the arbiter upon these subordinate questions ought to be acquiesced in by the two Governments. They think that the spirit of the agreement to make the reference, requires that the two parties should so acquiesce, and they are, moreover, of opinion that, by doing so, the two Governments would clear away several of the remaining points of difference, and materially facilitate an amicable adjustment of the rest.

1st. The arbiter expresses his opinion that the term "highlands," may properly be applied not only to a hilly and elevated country, but to a tract of land which, without being hilly, divides waters flowing in different directions; and, consequently, according to this opinion, the highlands to be sought for, are not necessarily a range of mountains, but rather the summit level of the country.

2nd. The arbiter expresses his opinion, that an inquiry as to what were the ancient boundaries of the North American Provinces, can be of no use for the present purpose; because those boundaries were not maintained by the Treaty of 1783, and had, in truth, never been distinctly ascertained and laid down.

3rd. The arbiter declares that the north-west angle of Nova Scotia, mentioned in the Treaty of 1783, is not a point which was then known and ascertained; that it is not an angle which is created by the intersection of any lines of boundary at that time acknowledged as existing; but that it is an angle still to be found, and to be created by the intersection of new lines, which are hereafter to be drawn in pursuance of the stipulations of the Treaty. And, further, that the nature of the country eastward of the said angle, affords no argument for laying that angle down in one place rather than in another.

4th. He states that no just argument can be deduced for the settlement of this question from the exercise of the rights of sovereignty over the Fief of Madawaska, and over the Madawaska settlement.

5th. He declares that the highlands contemplated in the Treaty should divide immediately, and not mediately, rivers flowing into the St. Lawrence, from rivers flowing into the Atlantic, and that the word "divide," requires contiguity of the things to be divided.

6th. He declares that rivers falling into the Bay of Chaleur, and into the Bay of Fundy, cannot be considered according to the meaning of the Treaty, as rivers flowing into the Atlantic; and, specifically, that the rivers St. John and Ristigouche cannot be looked upon as answering to the latter description.

7th. He declares that neither the line of boundary claimed by Great Britain, nor that claimed by the United States, can be adjudged as the true line, without departing from the principles of equity and justice as between the two parties.

Now, whether the two parties adopt the mode of settlement recommended by the arbiter, and agree to divide between them, in some proportion or other, the disputed territory; or whether they shall still make another attempt to trace a boundary in strict conformity with the words of the Treaty; in either case it appears to His Majesty's Government that it would be necessary to adopt these seven decisions of the arbiter, as a groundwork for further proceedings; and it seems that no satisfactory or useful result could be obtained from the local survey proposed by the American Government, until the two parties are agreed upon these seven points.

But with respect to the proposition made by the American Government, the first question which presents itself is, whether there is any reasonable probability



that a fresh local survey to be made in the manner suggested, would afford a solution of the remaining problem.

The Treaty requires that highlands should be found, dividing rivers which fall into the St. Lawrence, from rivers which fall into the Atlantic Ocean; and that those highlands should be found in a direction due north from a spot which has already been determined, namely, the source of the river St. Croix.

Now, every thing which is known of the geography of the country tends to shew, that no such highlands can be found in that particular meridian; and the American Government, almost admitting that fact, suggests that the required highlands should be sought for in a north-westerly direction from the ascertained spot. No doubt can exist that, by going far enough to the westward, such highlands as those required by the Treaty could be found, because it is well-known that the high ground in the neighbourhood of the source of the St. John, divides the Kennebec which falls into the Atlantic, from the Chaudière which falls into the river St. Lawrence.

But the difficulty which is said to prevent the Government of the United States from acquiescing in the recommendation of the King of the Netherlands is, that the Federal Government has no authority to agree to any other line of boundary than that, which is described by the Treaty, which constituted the United States; at least not to any other line which might imply a cession of any part of the territory to which the Treaty, as hitherto interpreted by the United States, may appear to entitle one of the component States of the Union.

But if this objection is insurmountable as against the line recommended by the King of the Netherlands, would it not be equally fatal to that suggested by Mr. Livingston? Because, if the boundary was formed by a line drawn from the head of the St. Croix to highlands found to the westward of the meridian of that spot, that boundary would not be the boundary of the Treaty; seeing that the Treaty requires the boundary to be run along the meridian of the head of the St. Croix, and the State of Maine might object to any deviation from the line of the Treaty in a westerly direction, as justly as it could to any deviation from that line in a southerly direction. Nay, it might object, with more appearance of reason, to a westerly departure from an ascertained meridian, which is distinctly specified in the Treaty, than to a departure southward from an imaginary line, which is only described in the Treaty, and the finding of which is a thing that has not yet been accomplished.

The present state of the case, therefore, seems to be this: that to carry the Treaty strictly and literally into execution, is physically and geographically impossible; and that there exist constitutional difficulties in America which have not yet been surmounted, which prevent the Government of the United States from agreeing to a compromise.

Upon a full view of this matter, then, His Majesty's Government think that, in the first place, and previously to any further negotiation, they are entitled to claim from the Government of the United States an acquiescence in the decisions pronounced by the arbiter upon all those points which he has decided; and, in the next place, that, as a preliminary to any attempt (in which His Majesty's Government would gladly concur) to settle the remaining point by negotiation, they ought to be satisfied that the Government with which they will have to treat, is possessed of the powers necessary for carrying into effect any arrangement upon which the two parties might agree.

I am, &c.

*Rt. Hon. Sir C. R. Vaughan,*  
 &c. &c. &c.

(Signed) PALMERSTON.

No. 32.

*Viscount Palmerston to Sir C. R. Vaughan,*

Sir,

*Foreign Office, December 21, 1833.*

WITH reference to my accompanying despatch of December 21, the substance of which you will communicate in an official note to the American Government, I have further to instruct you to make in the same shape, the following observations to Mr. McLane, on the subject of that constitutional difficulty by which alone the American Government, as appears from your correspondence with Mr. Livingston, is prevented from acquiescing in the

arrangement recommended by the King of the Netherlands for the final settlement of the boundary in the neighbourhood of the river St. John.

The constitutional difficulty in question is stated to be, the want of authority in the Government to cede territory belonging to any one of the States of the Union; and it arises, on the present occasion, in consequence of an objection advanced by the State of Maine. The Government of Maine assumes, that the Treaty of 1783 has given to that State a perfect title to all the territory lying to the southward of the highlands north of the St. John, and to the westward of the meridian of the head of the St. Croix. The State of Maine can have no other title to this territory than that which she derives from the Treaty; and if the Treaty is found to have left that title imperfect, the assumption that the territory claimed under it is part of the territory of Maine, falls to the ground; and that assumption is the basis of the constitutional objection by which the American Government conceives itself fettered.

The arbiter has certainly failed to establish a boundary, such as is described by the Treaty, for the whole of the interval between the source of the St. Croix and those highlands which divide the waters of the Chaudière from those of the Kennebec; but he has at least determined what is *not* that boundary. He has decided, for instance, in opposition to the claim of Great Britain, that the boundary to be sought for does not lie along the highlands to the south of the St. John; but he has equally decided that it does not lie along the highlands claimed by America to the north of the St. John. For, by declaring that the rivers St. John and Ristigouche are not Atlantic rivers within the meaning of the Treaty, and, farther, that the Treaty requires an immediate division of rivers by the highlands, and is not satisfied by an immediate division in one direction, and a mediate division in the other, he has decided, that neither the highlands claimed by Great Britain nor those which are claimed by America, fulfil both of the necessary conditions. The arbiter's opinion is, that each of those ranges of highlands fulfils one of those conditions, and fails to fulfil the other; that it is geographically impossible that there should exist highlands east of the sources of the St. John, which can fulfil both of them together; and, consequently, that the territory which lies between the highlands claimed by Great Britain, and those claimed by the United States, respectively, is not the absolute property of either party, but is, in some proportion or other to be hereafter determined, the property of both; that the territory, if not entirely British, is also not entirely American; and therefore is not such territory as the American Government can be precluded by the constitution from relinquishing.

The only part of the territory in question to which the Government of the United States cannot constitutionally give up its claim, is that part which belongs of right to Maine, according to the Treaty of 1783. But the arbiter has clearly decided that the whole of the disputed territory does not so belong to the State of Maine; and finding it impossible to determine how much of it is so belonging to Maine, he recommends a compromise by which the contending parties should settle their differences.

I am, &c.

*The Rt. Hon. Sir C. R. Vaughan.*

(Signed)

PALMERSTON.

&c.      &c.      &c.

No. 33.

*Sir C. R. Vaughan to Viscount Palmerston.—(Received March 18.)*

My Lord,

*Washington, February 12, 1834.*

I HAVE the honor to acknowledge the receipt, on the 10th instant, by way of Liverpool, of your Lordship's despatches, dated the 21st December. Until the arrival of the packet, bearing these despatches on the 10th of February, no intelligence from Europe had been received of a later date than the 27th November, owing to an unusually long continuance of contrary winds.

Having requested an audience of the Secretary of State, I delivered to him on the 11th instant, two notes, copies of which it is not necessary to enclose, as they were transcripts of the despatches which your Lordship directed me to communicate officially to the Government of the United States.

When I presented the contents of the first of your Lordship's despatches, I observed that it was the opinion of His Majesty's Government, that no favourable



result could arise from the actual survey proposed originally by Mr. Livingston, until the two Governments should agree to acquiesce in certain points, which the arbiter had clearly decided according to the submission. Those points he would find enumerated in the note which I had delivered to him. If the American Government would consent to agree upon those points, many subjects of difference would be cleared away, and a final adjustment materially facilitated.

After reading the first note, Mr. McLane seemed to think that the acquiescence in the points enumerated by your Lordship would still leave the President in all the embarrassment of the constitutional difficulty started by Maine, which Mr. Livingston's proposition was designed to get rid of, as wherever the proposed survey should discover highlands, on that point the Executive could fix the line of boundary as being according to the Treaty, without any reference to the Senate or to the pretensions of Maine.

Having noticed the difficulty which Maine might again offer to any line diverging from the due north line of the Treaty, to reach highlands to the westward of it, I presented in a second note, the observations contained in your Lordship's last Despatch, on the constitutional difficulty which has prevented the United States from acquiescing in the arrangement recommended by the King of the Netherlands.

Mr. McLane stated that he should immediately lay my notes before the President, after which he promised to see me again.

There is no probability that I shall be able to report upon the disposition of this Government to acquiesce, in time for the packet which will convey this despatch.

I have the honor to be, &c.,  
 Viscount Palmerston, G.C.B. (Signed) CHAS. R. VAUGHAN.  
 &c. &c. &c.

#### No. 34.

*Sir C. R. Vaughan to Viscount Palmerston.—(Received April 21.)*

My Lord,

*Washington, March 12, 1834.*

I HAVE the honour to transmit to your Lordship, the answer which I have just received from the Secretary of State of the United States, to the two notes upon the question of boundary, which, according to your Lordship's instructions, I addressed to him on the 10th ultimo.

The President declines acquiescing in the seven subordinate points enumerated by your Lordship, and growing out of one of the three points which were submitted to the arbiter. With regard to the two other points, it is denied in the enclosed note that the arbiter had decided them; but if His Majesty's Government will accede to the proposition made by the United States, for a survey upon the new principle proposed, he is willing to adopt the stream situated farthest to the north-west among those which fall into the northernmost of the three lakes, as the northernmost head of the Connecticut River, according to the Treaty of 1783, and to dispose of the other point by adopting the latitude laid down in a survey of Valentine and Collins made in 1771 and 1772.

The President thinks that the highlands of the Treaty may be found with the aid of more accurate surveys by skilful persons, freed as they are to be, from the restraint of proceeding in a due north line from the monument at the sources of the St. Croix River; and he is persuaded that His Majesty's Government will be disposed to co-operate with him in another effort for the adjustment of this important subject.

I shall endeavour to see Mr. McLane before I acknowledge the receipt of his note.

I have the honour to be, &c.  
 Viscount Palmerston, G.C.B. (Signed) CHAS. R. VAUGHAN.  
 &c. &c. &c.

Inclosure in No. 34.

*The Hon. Louis McLane to Sir C. R. Vaughan.*

*Department of State, Washington, March 11, 1834.*

THE Undersigned, Secretary of State of the United States, has the honor to acknowledge the receipt of the note of Sir Charles R. Vaughan, &c. &c. of the 10th ultimo, communicating the views entertained by His Majesty's Government, of the proposition submitted by direction of the President, in a letter from Mr. Livingston of the 30th of April last, for the settlement of the question respecting the north eastern boundary.

The Undersigned has submitted Sir Charles R. Vaughan's note to the President, and has received his directions to make the present reply.

The President perceives, with pleasure, a spirit on the part of His Majesty's Government corresponding with that with which he is actuated in his endeavours, finally, to settle a subject so important to the amicable relations between the two countries; and although he cannot concur in all the views, which Sir Charles R. Vaughan has been commanded to present, he entertains the hope, that the spirit in which they have been presented, may yet recommend the acceptance of the proposition authorized by the President, in relation to what is understood to be the chief difficulty in ascertaining the true boundary according to the Treaty of 1783.

In his note of the 10th instant, Sir Charles R. Vaughan in substance remarks, that by the Convention of the 29th September, 1827, the two Governments bound themselves to submit to an arbiter certain points of difference which had arisen in the settlement of the boundary between the British and American Dominions, that the arbiter was thus called upon to determine certain questions, and that, if he has determined the greater part of the points submitted to him, his decision on those points ought not to be disregarded, merely because he declares that one remaining point cannot be decided in any manner in conformity with the words of the Treaty of 1783, and therefore recommends to the two parties a compromise on that particular point. Sir Charles R. Vaughan also remarks, the main points referred to the arbiter were the three following.

1. Which is the spot designated in the treaties as the north-west angle of Nova Scotia, and which are the highlands dividing the rivers that empty themselves into the river St. Lawrence from those falling into the Atlantic Ocean, along which highlands is to be drawn the line of boundary to the north-west head of the Connecticut River.

2. Which is the north-west head of the Connecticut River.

3. Which is the boundary to be traced from the river Connecticut along the parallel of the 45th degree of north latitude to the river Iroquois or Cataraquy (St. Lawrence) as intended by the Treaty of 1783.

Sir Charles R. Vaughan likewise supposes, that upon the second and third of these points, the arbiter has given a decision, to which no objection can be urged.

Sir Charles R. Vaughan also proceeds to state, that although the arbiter has declared that it is impossible to find a spot, or to trace a line which shall fulfil all the conditions required by the words of the Treaty for the north-west angle of Nova Scotia, and for the highlands along which the boundary is to be drawn, yet, that in the course of his reasoning upon this point, he has decided several questions, being seven in number, connected with it, upon which the two parties had entertained different opinions.

Sir Charles R. Vaughan further states, that it is the opinion of His Majesty's Government, that the decisions of the arbiter upon the second and third points referred, and also upon the subordinate questions, as to which he expressed an opinion in his reasoning upon the first main point, ought to be acquiesced in by the two Governments; and that, in any future attempt to trace a boundary in strict conformity with the words of the Treaty of 1783, it would be necessary to adopt the opinion expressed on those seven questions as a ground work for further proceedings.

Without here attempting a more particular reference to other remarks of Sir Charles R. Vaughan, the Undersigned will proceed with his observations in reply; not doubting, that in these a satisfactory answer to the entire scope of Sir Charles R. Vaughan's note will be perceived.



The Undersigned is constrained to express his regret, that it should still be considered by His Majesty's Government, that any part of the opinion of the arbiter is obligatory upon either party, but he does not deem it necessary or useful at present, to enter at large into the discussion of that point. From the nature of the opinions expressed by the arbiter, his recommendations could not have been carried into effect by the President without the concurrence of the Senate; and that body considering those opinions not only as not determining the great and substantial object of the reference, but as in fact deciding that object to be impracticable, and therefore recommending to the two parties a boundary not even contemplated either by the Treaty or by the reference, nor within the power of the general Government to take, declined advising the President to execute the measures recommended by the arbiter, but, on the contrary, did advise him to open a new negotiation with His Britannic Majesty's Government, for the ascertainment of the boundary between the possessions of the United States and those of the King of Great Britain, on the north-eastern frontier of the United States, according to the Treaty of 1783.

The proposition submitted by Mr. Livingston in his letter of the 30th April proceeds upon this basis, in the hope that, if embraced, it will remove the principal difficulty which prevented the arbiter from attaining the object of the reference.

The Undersigned is constrained to observe, however, that he cannot admit that even a decision, much less the expression of an opinion by the arbiter upon some of the disputed points, but of a character not to settle the real controversy, is binding upon either party in any future attempt to adjust that which the arbiter failed to settle.

Now the main object of the stipulation in the Vth article of the Treaty of Ghent, of the commission raised under that article, and of the reference to the King of the Netherlands, was the ascertainment of the north-eastern boundary along its entire line, according to the Treaty of 1783, and which had remained unascertained since that period. It is true that, in the ascertainment of this boundary, many points, as is most generally the case in disputed questions of location, were involved, and that each of those may be admitted to be necessary to the discovery of the true boundary throughout the whole line; but when the arbiter felt himself unable to decide *more than one, or at most two, of these points*, he was in fact little nearer the accomplishment of the great and real object of the reference, or of the objects of the Treaty of 1783, and that of Ghent, than if he had left each point undetermined. The most material point in the line of the true boundary, both as it respects the difficulty of the subject, and the extent of the territory and dominions of the respective Governments, he confessedly not only failed to decide, but acknowledged his inability to decide, thereby imposing upon both Governments, and especially that of the United States, owing to the peculiar structure of its institutions, the unavoidable necessity of resorting to further negotiation, and other means to ascertain the real boundary of the Treaty of 1783; and as a necessary consequence, each party was absolved from any obligation to adopt his recommendations.

Not only has the arbiter not decided all the points necessary to be ascertained for the purpose of establishing the true boundary of the Treaty of 1783; but the vital and most material point, that without which no step can be taken in fixing the boundary and running the line stipulated by the Treaty of 1783, he has undeniably left undecided, whereby the great objects of the Treaties and of the Convention of reference have been defeated.

Nor can the Undersigned admit, that of the three main points of difference referred to the arbiter as necessary to ascertain the boundary of the Treaty of 1783, he has decided two, as is supposed by His Majesty's Government. On the first point it is not contended that the arbiter made a decision, or that he found either the angle or the highlands called for by the Treaty of 1783; but it is on the contrary clear, that so far from deciding that point, or finding those places, he merely expressed an opinion of what would be suitable for the parties to adopt in lieu of the line of the Treaty; and it appears to the Undersigned equally clear, that, in relation to the third point, his opinion is expressed in no more positive language, and with no nearer an approach to a decision. On this point he expresses an opinion merely that it will be suitable to proceed to fresh operations to measure the observed latitude, but in such manner that

the fort at Rouse's Point shall be included in the territory of the United States.

The Undersigned is aware, however, that if the proposition made by Mr. Livingston should be acceded to by His Majesty's Government, and the commission hereafter to be appointed should result as the Undersigned believes it will, in ascertaining the true situation of the boundary called for by the Treaty of 1783, it would be afterwards necessary, in order to ascertain the true line of boundary, to settle the other two points according to which it is to be traced: and as the proposition contained in Mr. Livingston's letter does not apply to either of these points, the President is sensible that some understanding upon them will be proper to the attainment of the great object he is pursuing.

The President has therefore directed the Undersigned to say, that if the proposition he has caused to be made, be acceded to by His Majesty's Government, notwithstanding that he does not admit the obligatory effect of the decision, or rather the opinion of the arbiter on the point, he is willing to take the stream situated farthest to the north-west among those which fall into the northernmost of the three lakes, the last of which bears the name of Connecticut Lake, as the north-westernmost-head of the Connecticut River, according to the Treaty of 1783.

As it respects the third point referred to the arbiter, but upon which he failed to decide, Sir Charles R. Vaughan is, doubtless, aware, that as early as the year 1771 and 1772, the line of boundary involved in it, was surveyed and marked along the 45th parallel of north latitude from the east side of Lake Champlain to the river Connecticut, by Thomas Valentine, deputy surveyor on the part of the province of New York, and by John Collins, deputy surveyor of the province of Quebec; that since that period, grants of land have been made by the respective Governments on both sides up to this line; that settlements have been formed, that towns have risen up, and that jurisdiction has been exercised by the two Governments up to this line on either side. These facts are certainly cogent proofs that this line is the true boundary according to the Treaty of 1783; and it appears to the President, that regarding the preservation of the population on both sides, their habits and settlements, this third point might be disposed of with mutual satisfaction to both nations, and in strict conformity with the Treaty of 1783, by adopting the line as surveyed and marked by Thomas Valentine and John Collins, in 1771 and 1772; and he will accordingly agree, if his proposition as to the first point be embraced, to adopt this line.

An acquiescence by the United States in the opinions, which it is supposed by His Majesty's Government have been pronounced by the arbiter in the course of his reasoning upon the first point submitted to him, is liable not only to the objections already stated, but to others which the Undersigned is constrained by the spirit of frankness in which the proposition directed by the President has been presented, to inform Sir Charles R. Vaughan, are insuperable.

It is in the first place to be observed, that the matters to which the arbiter's opinions mentioned by Sir Charles R. Vaughan relate, although subjects on which the two parties may have entertained different views, were subordinate merely to the point in dispute submitted to the arbiter, and were used by the parties in illustration of their pretensions, and as affording grounds to sustain their respective positions on the real point in dispute. The views expressed by the arbiter on these matters cannot be regarded as decisions within the meaning of the reference, but rather as postulates or premises by which, in the course of his reasoning, he arrived at the opinion expressed in regard to the point submitted for his decision; and it therefore follows, that the acquiescence on the part of the United States, as required by Great Britain, would be to reject as erroneous the conclusion of the arbiter, and at the same time to adopt the premises and reasoning by which he reached it.

It must also be remarked, that these seven postulates or premises selected by His Majesty's Government as necessary to be conceded by the United States, are but part of those on which the arbiter, in the course of his reasoning, was equally explicit in the expression of his views, and that on others his reasoning may be considered as being more favourable to the pretensions of the United States; and no reason is perceived, therefore, why an acquiescence in the



opinions of the arbiter upon these should not equally apply to all the premises by him assumed, and be binding upon both Governments.

The Undersigned is persuaded, however, that there is no obligation upon either party to acquiesce in the opinion of the arbiter on any of the matters involved in his premises, and that to do so would defeat the end of the present negotiation.

It appears to be conceded that, upon this great and most material point, the arbiter has not made his decision in such manner as to be binding upon either of the parties; and if, in consequence of this fact, no obligation can arise to acquiesce in his opinion upon the main point he was called upon to decide, certainly there can be no greater obligation to yield, not to his decisions, but to his opinions upon matters subordinate merely.

The stipulations in the Treaty of Ghent require the ascertainment and determination of those parts of the boundary designated in the Treaty of Peace of 1783, therein mentioned, and the three points of difference between the commissioners appointed according to the former Treaty, were referred to the decision of the arbiter. Of these the most material point is that of the highlands to which the proposition directed by the President applies, and which are designated in the Treaty of Peace as the north-west angle of Nova Scotia, formed by a line drawn due north from the source of the St. Croix River to the highlands dividing the rivers that empty themselves into the river St. Lawrence from those which fall into the Atlantic Ocean.

Now should it even be admitted that, in relation to some of the matters subordinate to this material point submitted to him, the arbiter may have expressed his opinions, yet it is obvious that the result of his reasoning, and of those opinions upon his premises, taken together, instead of leading to the determination he was called upon to make, necessarily conducted him to the conclusion, that neither of the boundaries claimed by the respective parties is the true line, and that he himself could not ascertain and determine which the true line according to the Treaty, is. His premises and reasoning, therefore, ended in satisfying the judgment of the arbiter, that it was impossible for him to decide the great point submitted to him. But, instead of reviewing his course of reasoning, which, for the cause already stated, there was good ground to distrust, and in the opinion of the Undersigned wholly to reject, inasmuch as to admit its accuracy would be subversive of the objects and stipulations both of the Treaty of 1783, and of that of Ghent; and instead of proceeding by other means to ascertain and determine the true line, he recommended a new line confessedly different from that called for by the Treaty of 1783, answering in no particular the words of that Treaty, and which could only be established by a Convention between the two Governments. But this recommendation the Government of the United States could not adopt, nor without the consent of the State of Maine, agree upon a new and conventional line, different from that required by the Treaty of peace. The resolution of the Senate, pursuant to which the present negotiation has happily been renewed, proposes to ascertain the boundary according to the Treaty of 1783; and for this purpose, by whatever means it may be attained, the authority of the Government of the United States is complete, without the co-operation of the State of Maine.

Now it must be admitted, that the arbiter precluded himself from attaining this object, by his reasoning on the subordinate matters already mentioned, and by failing afterwards to adopt other means not only allowable, but usual in such cases.

In all questions of boundaries of tracts and countries designated by natural objects, the plain and universal rule of surveying is, first to find the natural object, and then to reach it by the nearest direct course from any given point, and with the least possible departure from the particular course called for in the original deed or Treaty. The obstacles by which the commissioners, in the first instance, and the arbiter afterwards, were prevented from ascertaining the boundary upon the first point of difference, was the supposed impossibility of finding such highlands answering the description of the Treaty of 1783, as could be reached by a line drawn due north from the monument; whereas, had either first found the highlands called for by the Treaty, and afterwards, in conformity with the rule already adverted to, traced the line from the monument to such highlands, in the manner above indicated, it is believed the true line of the Treaty could have been ascertained.

Here then is one plain and usual means by which this difficult question may be settled, but which has not yet been resorted to in the previous efforts of the party to adjust it. This means the proposition submitted by the President proposes to employ, and in the manner particularly referred to in the letters which have been heretofore addressed by the Secretary of State to Sir Charles R. Vaughan.

Now the proposition of the President is to find the highlands answering the description of those called for by the Treaty of 1783, and to them, from the monument, to run a direct line ; and the President does not doubt that, with the aid of more accurate surveys by skilful persons, on the ground, and freed from the restraint hitherto imposed by a due north line, such highlands may be found, and which either the commissioners or the arbiter might have found, had they adopted the rule now proposed.

But the British Government asks the United States, as a preliminary concession, to acquiesce in the opinion of the arbiter upon certain subordinate facts, being seven in number, by which, obviously, he was prevented from finding that which it is the object of the President now to discover. The Undersigned is persuaded that Sir Charles R. Vaughan will admit that the concession of these opinions would, in effect, defeat the sole object not only of the proposition, but of the negotiation at present renewed, *i. e.* the ascertainment and determination of the boundary according to the Treaty of 1783.

By the opinion of the arbiter, in relation to these subordinate matters, he reaches the conclusion that the discovery of the line of 1783 was impracticable, and that the question could only be settled by a conventional line ; and, therefore, the acquiescence of the United States in the same opinions would, *in limine*, confine the negotiation to a conventional line, to which, in the present state of the controversy, they have no authority to agree.

To insist upon such concession would not merely defeat the object of the negotiation, but would be an unnecessary departure from the terms and stipulations of previous Treaties. The clear object of the Treaty of Ghent is to ascertain the boundary designated by the Treaty of 1783, and that object it should be the mutual desire of the two Governments to accomplish by all the means at their command.

Although the efforts already made for that purpose have proved unsuccessful, neither parties should be deterred, seeing how deeply the subject affects their amicable relations, from resorting to others more promising in their nature, but which, on previous occasions, have been overlooked.

If after a resort to the plain and universal rule now recommended, it should be found impracticable to trace the boundary according to the Treaty of 1783, it would be time enough, and might then be desirable to enter upon a negotiation for terminating the difficulty by the adoption of a conventional line satisfactory to both parties.

This mode, however, could only be adopted with the special assent of the State of Maine, and it is believed that the probability of such assent in the present state of the negotiation, while on the part of the authorities of that State, no doubt is entertained of the practicability of ascertaining the true line, and while so much confidence is felt in the means now proposed, is too remote to justify any attempt to procure it.

It would also be impossible to reconcile the people of that State to the result of any negotiation, in which should be at once conceded those points respecting which, in the course of his reasoning, it is supposed the arbiter committed the most serious error, and by which he was prevented from coming to a decision by which both parties would have been bound.

The proposition directed by the President, therefore, is to submit the whole subject, so far as it relates to this first point of difference, to the commission mentioned in the note to Mr. Livingston of the 30th of April, and clothed with the same powers as belonged to the commissioners under the Treaty of Ghent, and to the arbiter, in order that, instructed by the introduction of the rule now explained and not adopted by their predecessors, they may have greater means for a satisfactory discharge of their duties.

For a successful termination of the labours of the commission to be instituted under this proposition, an unlimited discretion over all the points



necessary to a proper decision of the subject committed to it, is indispensably necessary ; and it must be obvious, that if the new commissioners should be restricted to the reasoning of the arbiter, either in its premises or conclusions, the only object of their appointment would necessarily be defeated.

The Undersigned believes that, in the foregoing observations, it will be found that a sufficient answer has already been given to the suggestion of Sir Charles R. Vaughan, that the objection to the power of the Government of the United States to adopt the line recommended by the King of the Netherlands, will be equally fatal to that suggested by Mr. Livingston. It may not be improper, however, further to observe, that the objection arises from the want of authority in the general Government to adopt a line confessedly different from that called for by the Treaty of 1783 ; but their authority to ascertain that line being unquestionable, their power to employ all the legal and usual means for its ascertainment is equally clear. It is with this view that the proposition presented by the President, proposes to conform the course to the natural object, whereby the true line of the Treaty would be legitimately ascertained.

On the whole, the Undersigned persuades himself that His Majesty's Government will be disposed to co-operate with the President in another effort for the adjustment of this important subject ; and not be deterred from embracing the means now proposed, from an apprehension of difficulties which it is confidently believed are not likely to occur.

The Undersigned avails himself, &c.,

(Signed) LOUIS Mc LANE.

*Sir C. R. Vaughan.*  
*&c. &c. &c.*

#### No. 35.

*Sir C. R. Vaughan to Viscount Palmerston.—(Received May 5.)*

(Extract.)

*Washington, March 20, 1834.*

AS I wished to avail myself of the earliest opportunity of transmitting to your Lordship a copy of Mr. McLane's answer to the proposals for facilitating the settlement of the boundary, I had not time to consider it attentively before the packet sailed of the 16th instant, by which I forwarded my last despatches.

The decided opinion of Mr. McLane, that no part of the award of the arbiter could be binding upon the American Government, the rejection of the seven subordinate points, growing out of the first of the three distinct main points, submitted to arbitration, and the proposed conditional acceptance only of the two others, though clearly decided according to the terms of the Treaty and of the submission, have induced me to make the observations in reply to Mr. McLane, in a note, a copy of which I have the honour to enclose.

It appears to me that the Secretary of State of the United States will not admit any change in his plan of attempting, by a new and complicated commission of survey, to discover the division of rivers, which might permit the President to run a line of boundary, which would be so nearly according to the terms of the Treaty of 1783, that he could assent to it without reference to the States of Maine and Massachusetts.

#### Inclosure in No. 35.

*Sir C. R. Vaughan to the Hon. Louis McLane.*

*Washington, March 16, 1834.*

THE Undersigned has the honour to inform Mr. McLane, that he has transmitted to His Majesty's Government a copy of the note received from him, dated the 11th instant, in answer to the proposal made by the British Government to the Government of the United States, that both parties should agree to

acquiesce in certain points, decided by the arbiter, which might facilitate the settlement of the north-eastern boundary of the United States.

The Undersigned begs permission to call the attention of the Secretary of State of the United States to some observations, which he wishes to make upon the objections, which are said to be insuperable, on the part of the United States, to an acquiescence in the points, which he has had the honour, according to his instructions, to submit to the American Government.

The adoption of the views of the British Government, by the Government of the United States, was meant to be the groundwork of future proceedings, whether those proceedings were to be directed to another attempt to trace the boundary by a fresh survey of the country, as proposed by the United States, or to a division of the territory depending upon a conventional line.

The Undersigned finds, that, in the note of Mr. McLane, there is a positive objection on the part of the United States, to consider any point of the controversy, as decided by the arbiter, to be binding upon the American Government; that to agree in the seven points enumerated by the British Government would be to acquiesce in the premises, by which the arbitrator had arrived at a conclusion already rejected by the Senate of the United States.

The arbitration of the King of the Netherlands was invited, and accepted in the following general terms: "that His Majesty would be pleased to take "upon himself the arbitration of the differences between the two countries." The opinion of the arbiter was asked in the statements of the respective parties, not upon a question involving the whole continuous line of boundary, but upon three separate and distinct points, which were specified. The first of these main points could not be entirely decided by the arbitrator; but he decided seven subordinate points growing out of it, in which the United States have been asked to acquiesce, as preliminary to any further proceedings.

The Undersigned has already had the honour to state in a former note, that the British Government does not conceive that the decision of the arbiter is invalidated, and ought to be set aside entirely, because it has failed to decide one of the three distinct points submitted to him.

Mr. McLane does not admit that the arbiter has decided, as the British Government asserts, two out of the three main points submitted for his decision. In the opinion of the Undersigned, he has clearly decided what ought to be considered as the north-westernmost head of the Connecticut River; but according to Mr. McLane's note, the Government of the United States will only admit it conditionally.

With regard to the third separate and distinct point submitted by the respective parties, the tracing the boundary line along the forty-fifth degree of latitude, in the American Statement; "the question referred is, whether, under "the Treaties of 1783 and of Ghent, the old line may be continued to be "considered as the boundary of the United States, or whether this shall be "surveyed anew in conformity with the late observations of latitude."

The arbitrator decided strictly, according to the terms in which the question was put to him, in the American statement, that it would be right to proceed to fresh operations to measure the observed latitude.

This decision was accompanied with a recommendation, that Rouse's Point, to which the United States had abandoned all claim, should be restored to them. The Undersigned has had the honour to declare the willingness of the British Government, to grant that cession as a part of the preliminary points to be agreed upon by both parties before they proceed to further negotiation.

Without any consideration of the cession of this point by His Majesty's Government, Mr. McLane proposes to dispose of this third point (the line of boundary on the 45th degree of latitude), by both parties agreeing to adopt the old line surveyed by Valentine and Collins previously to 1774. It appears, on reference to the statements delivered to the King of the Netherlands, that both parties suspected the survey of Valentine and Collins of great inaccuracy, and the only motive for retaining it can be that some American citizens may have made settlements upon some nine miles of territory, which a new survey might throw into the possession of Great Britain.

The Undersigned cannot agree with Mr. McLane that the acquiescence of the United States in the seven subordinate points lately submitted by His Majesty's Government would confine the negotiation, *in limine*, to a conventional line, to which the President has no authority to agree; and, notwithstanding the



unlimited discretion which the Secretary of State proposes to give to the commissioners to be appointed according to Mr. Livingston's proposal, not a step can they take unless the two Governments agree upon two of the seven subordinate points, which the Undersigned has enumerated in a former note, as they determine the character of the land they are to discover as dividing waters according to the Treaty of 1783, and what are to be considered as Atlantic rivers.

Whatever may be the reluctance of the United States to consider the decision of the arbiter upon any separate point, as not binding upon either party, because he failed to discover the line of boundary so defectively described in the Treaty, yet it cannot but be agreed that, in all points decided, there is (in the language of the report of the Senate) the impartial opinion of a disinterested judge, selected by both parties to settle a question of great perplexity.

In answer to the observations of Mr. McLane, that on many points the reasoning of the arbiter has been more favourable to the United States than to Great Britain, and that, therefore, acquiescence should equally apply to all the premises assumed, the Undersigned has only to require that they should be stated, as he is confident that if acquiescence in them can facilitate in any shape the object, which now occupies both Governments (the devising means of settling the boundary), they will meet with the most favourable consideration.

From a review of the correspondence which the Undersigned has had the honour to carry on with the Secretary of State, it results that there is a decided determination on the part of the Government of the United States not to abandon the task, which seems to be hopeless to the British Government, of tracing the boundary according to the defective description of it in the Treaty of 1783.

By the VIIth Article of the Convention of Arbitration it was agreed "That the decision of the arbiter, when given, shall be taken as final and conclusive, and it shall be carried, without reserve, into immediate effect, by commissioners appointed for that purpose by the contracting parties."

Great Britain, in fulfilment of the obligations contracted under that Article of the Convention, announced to the United States her willingness to abide by the award of the arbiter.

It is not for the Undersigned to decide how far the British Government was entitled to insist upon the question of boundary having been finally settled by the decision of the King of the Netherlands. The Senate of the United States, according to the statement of the proceedings given in the eighth volume of Congressional Debates, decided by a majority of only one vote, the numbers being twenty-one to twenty, to decline to adopt the boundary recommended by the King of the Netherlands; and, by a similar majority, the numbers being twenty-three to twenty-two, the Senate decided to advise the President to open a new negotiation with His Britannic Majesty.

When the Undersigned finds so important a measure defeated by a bare majority—when a majority of one only decided the Senate to advise the opening of a new negotiation—when that negotiation was restricted to one inadmissible basis, and accompanied with new pretensions which the British Government could not consent to entertain in connection with the boundary question;—when the plan proposed by the United States for another attempt to trace the boundary of the Treaty is so complicated, and when the points proposed by the British Government are rejected, which were to render that plan more practicable, it is a subject of sincere regret that the award of the arbiter was set aside, which by conferring upon the United States three-fifths of the disputed territory, together with Rouse's Point, made a much greater concession than is ever likely to be obtained by a prolonged negotiation. But it is alleged that an insuperable constitutional difficulty occasioned the rejection of the award, and therefore Great Britain is under the necessity of ascertaining, previously to any further proceedings, how far the General Government has the power to carry into effect any arrangement which may be the result of a renewed negotiation.

The answer of Mr. McLane upon that point is confined to stating that, should a new commission of survey, freed from the restriction of following the due north line of the Treaty, find any where westward of that line, highlands separating rivers according to the Treaty of 1783, a line drawn to them from the monument at the source of the St. Croix river, will be such a fulfilment of the terms of that Treaty as the President can agree to make it the boundary, without a reference to the state of Maine.

The Undersigned trusts that Mr. McLane will receive the observations

which he has thought it his duty to make upon his note of the 11th March, in the same spirit of conciliation, which has marked hitherto the correspondence between the two Governments on the question of boundary.

The Undersigned has the honour, &c.

(Signed)

CHAS. R. VAUGHAN.

*The Hon. Louis McLane,*  
 &c.      &c.      &c.

No. 36.

*Sir C. R. Vaughan to Viscount Palmerston.—(Received May 5.)*

My Lord,

*Washington, March 28, 1834.*

I HAVE the honor to enclose the copy of a note, which I have received from the Secretary of State, in answer to the observations, which I thought it right to make upon the contents of his note of the 11th March, in which I was informed that the American Government would not agree in certain points decided by the arbiter, and which His Majesty's Government conceived might facilitate the settlement of the boundary.

To the remark which I made to him, that, upon reference to the account which had been published, of the proceedings of the Senate, when the award of the King of the Netherlands was under consideration, I had found a question distinctly taken, and the award rejected upon a division by a bare majority of twenty-one to twenty, Mr. McLane replies, that I have misapprehended the bearing of that division upon the decision of the Senate.

Though I had stated the numbers correctly, Mr. McLane asserts that the division had no direct application to the validity of the award, and affords no indication of the opinion upon the award, of the persons who constituted the minority of twenty. He informs me that the refusal of the Senate to consent to the execution of the award, was decided by a division upon the resolution contained in the report of the committee, which advised the President to assent to the determination of the King of the Netherlands, and which was negatived by a majority of thirty-five to eight.

I have stated to Mr. McLane, in a note, a copy of which is enclosed, that the division had escaped my attention, because the question, when taken, was divided, and encumbered with previous amendments, while upon the division of twenty-one to twenty the question was clearly stated.

The votes which negatived the resolution of the committee, were given on the 16th June, and I am reminded by Mr. McLane that a second division (which I find took place on the 23rd of that month) negatived by thirty-four to eight, a motion of a Senator, similar in terms to the resolution of the committee. Thus it appears that the award was not only negatived by twenty-one to twenty, but that only eight out of forty-three present on the first division, and the same number out of forty-two present on the second division, would consent to the execution of the award.

Mr. McLane declares in the enclosed note, that from the nature of the opinions expressed by the arbiter, his recommendation could not have been carried into effect without the consent of the Senate, which could only be constitutionally given by the concurrence of two thirds of the Senators present.

Your Lordship will perceive that Mr. McLane, in his note, has applied my observations about the complicated manner in which the United States proposed to arrive at a settlement of the boundary, to the adoption of the usual plan for the settlement of disputed questions of location, while it was my intention to apply them to the mode proposed by Mr. Livingston, of selecting and constituting the new commission of survey. His proposal is to appoint a commission of equal numbers, with an umpire selected by some friendly Sovereign, from amongst the most skilful men in Europe, to accompany the commission, and decide upon the spot, all points upon which the commissioners may disagree; or to appoint a commission composed entirely of skilful persons selected by a Sovereign, and to be attended by agents appointed by the respective parties.

Having noticed to Mr. McLane the inconvenient complication of the intervention of a friendly Sovereign, and the expence and difficulty of engaging, in such a commission, the talents and independence necessary for the accomplishment of the object in view, he seems to think that there will be no



difficulty in obtaining the assent of the United States to any modification of Mr. Livingston's plan for constituting a commission which His Majesty's Government may propose.

Mr. McLane declares in his note, that a conventional line of boundary, or a new attempt to find the line of the Treaty of 1783, are the only alternatives; and that the United States have no power to adopt the former without the assent of the State of Maine. The General Government has the constitutional authority to establish the line of 1783; and the President and the Senate are of opinion that it is practicable to ascertain that line; and that it is hopeless to obtain the assent of Maine, to a conventional line, until the impracticability of so doing is proved, after a fresh examination of the country.

Under these circumstances His Majesty's Government is invited by the President to make another effort to find the line of 1783.

I have the honour to be, &c.

Viscount Palmerston, G.C.B.,  
&c. &c. &c.

(Signed) CHAS. R. VAUGHAN.

Inclosure 1 in No. 36.

*The Hon. Louis McLane to Sir C. R. Vaughan.*

*Department of State, Washington, March 21, 1834.*

THE Undersigned, Secretary of State of the United States, has the honor to acknowledge the receipt of the note of Sir Charles R. Vaughan, &c. &c., of the 16th, in answer to that of the Undersigned of the 11th instant, relative to the proposition submitted by direction of the President for the adjustment of the north-eastern boundary, and the Undersigned has also to express his regret that the subject has not presented itself to Sir Charles in the light in which he had entertained the hope it would be viewed.

As Sir Charles R. Vaughan has transmitted for the consideration of his Government, the note of the Undersigned, no necessity is perceived for any other observations, at present, upon the remarks of Sir Charles R. Vaughan, than such as may be proper to correct some misapprehensions into which Sir Charles appears to have fallen, as well in regard to the proceedings in the Senate of the United States, as to the character of the proposition submitted by the President; which apprehensions, should they also be entertained by His Majesty's Government, might have an injurious influence on its deliberations upon a subject so important to the amicable relations between the two Governments.

The Undersigned is more encouraged to make this reply, by the persuasion that, from the spirit in which Sir Charles R. Vaughan has made his observations, he will be ready promptly to correct any error into which, by not sufficiently advertent to the peculiar structure of the institutions of the United States, he may, unintentionally, have been led.

Although Sir Charles R. Vaughan is correct in his statement, numerically, of the votes in the Senate in the two instances which he has specified, he has not adverted to other instances, in the course of the same proceedings, of a far more important and pertinent bearing; and of those which he has specified, he has entirely misconceived their bearing and constitutional effect: hence, he is especially mistaken in inferring, and indeed stating "that so important a measure was defeated by a bare majority; when a majority of one only decided the Senate to advise the opening of a new negotiation." This inference of Sir Charles arises from his statement "that the Senate of the United States decided by a majority of only one vote, the numbers being twenty-one to twenty, to decline to adopt the boundary, recommended by the King of the Netherlands, and by a similar majority, the numbers being twenty-three to twenty-two, the Senate decided to advise the President to open a new negotiation with His Britannic Majesty."

Now, the misapprehension into which Sir Charles has fallen is two-fold; 1st. In not properly considering the constitutional action of the Senate over such subjects, and in supposing that in any vote of that body, any number of its members within, not one or two, but even twenty-three of a majority, were in favour of adopting the award; and 2ndly, in considering the vote of the Senate upon a question wholly distinct and separate, in all respects, as indicative of the opinion of the Senate in regard to the effect of the award.

The Undersigned has already informed Sir Charles R. Vaughan, "that from the nature of the opinions expressed by the arbiter, his recommendations could not have been carried into effect by the President, without the consent of the Senate;" and it is proper now to observe, that such consent can only be constitutionally given, "provided two-thirds of the Senators present concur." Now, in the first instance, which Sir Charles has specified, the number of Senators present was forty-one, of which number two-thirds cannot be less than twenty-eight; and, therefore, if Sir Charles were correct in supposing the vote in this instance as applying to the validity of the award, and the twenty Senators voting in the negative upon that occasion, to be favourable to its adoption, still the number would be short, not one only, but eight of the constitutional number of two-thirds.

It is obvious, however, from the proceedings to which Sir Charles has referred, that the vote, in this instance, had no direct application to the validity of the award, and affords no proper indication of the opinion of the minority of twenty upon that point. The President could not execute the award without the consent of the Senate, two-thirds of the members present concurring; but this consent must be positively declared, and a failure or omission so to declare it, is tantamount to a rejection. A proposition, inviting or requiring such assent is also of an affirmative character, and the sense or action of the Senate in regard to it, ought regularly to be affirmatively manifested.

Now, the Committee to whom the President's message was referred, and to whose report Sir Charles has alluded, expressed the opinion, that in this case, the United States were not bound by the award, as such, though on grounds of expediency a majority of the Committee were favourable to its adoption; and, therefore, they recommended a positive and affirmative resolution, that the Senate advise the President to express to His Majesty the King of the Netherlands, the assent of the United States to the determination made by him, and consent to the execution of the same. This resolution presented the usual and only proper mode of ascertaining, constitutionally, whether the Senate would consent to the execution of the award, and upon a motion to strike out that part of the resolution expressive of the consent of the Senate, the vote stood thirty-five to eight—eight only concurring in consenting to the execution of the award. Of these eight it is certain that three were of the same majority of the Committee, whose report has been adverted to, who pronounced the award not binding upon the United States; and whether the remaining five supported the resolution from a belief that the award was binding, or concurred with the majority of the Committee in their views of expediency, merely, it is impossible to say, and it is not material to enquire.

It may, therefore, be safely affirmed, that in this vote is to be found the fact that of the forty-three members of the Senate present, eight only would consent to the execution of the award by the President; and from the further proceedings of the Senate, alluded to by Sir Charles, nothing more is to be inferred than a desire on the part of certain members to assign the ground for their refusal to concur, and which might not have operated with others.

These positions derive conclusive confirmation from the vote of the Senate, in a subsequent part of their proceedings, upon the amendment offered by a Senator from Kentucky, to a resolution submitted by a Senator from Maine; the latter resolving that the Senate do *not* advise a submission to the opinion of the arbiter, and the amendment proposing to insert, in lieu thereof, an affirmative resolution, "that in the opinion of the Senate, good faith and sound policy require the execution of the award." Of the forty-two members of the Senate then present, eight only supported the amendment, and thirty-four opposed it, whereby the negative proposition of the Senator from Maine, in itself unusual, became more obviously unnecessary, and was for that reason as it may be presumed, withdrawn.

Now, does not Sir Charles perceive from the result of all these proceedings that the Senate not only failed, but by two repeated votes of thirty-five and thirty-four to eight, refused to consent to the execution of the award, and by necessary implication denied its binding effect upon the United States?

The effect, then, of this refusal of the Senate to consent to the execution of the award put it out of the power of the President to execute it, and the further effect as stated in the letter of Mr. Livingston of the 30th April, 1833,



was to leave the high parties to the submission precisely in the situation in which they were prior to the selection of the arbiter.

In this posture of the affair, so far as it regards the award, no farther action by the Senate could be expected or hoped for, and so far as regards the preliminary steps in any future negotiation for the adjustment of this important subject, was not required. The high duty was thereby once more devolved upon the President of exerting his executive power under the constitution, to select a new arbiter, or to devise other means more practicable in their nature, and more likely to attain the objects of both the high parties. The first was deemed altogether useless, from the position assumed by the Government of His Britannic Majesty, as stated in Mr. Livingston's letter already alluded to, and, therefore, it only remained for the President to resort to other means less objectionable, to attain the objects of the Treaty of Ghent, which required the ascertainment of the line of boundary of the Treaty of 1783. It has been already observed that the authority of the President for this purpose existed in virtue of his executive power under the constitution, and independently of the preliminary action of the Senate: but neither the President, nor the Senate, nor both united, had authority without the assent of the State of Maine to agree upon a new and conventional line.

Now, it is clear that in the second instance of the vote of the Senate, to which Sir Charles R. Vaughan has referred, the advice given by that body had no relation whatever to the opinion of the arbiter; but on the contrary, as the Senate had previously refused to concur in consenting to the adoption of the award, suggested only that course, which, in the opinion of the majority, it would be expedient for the President, under the circumstances, to pursue. And if it were proper, which in the opinion of the Undersigned it is not, to enter into any speculation of the reasons by which the minority of twenty two on that occasion were influenced in refusing to give any advice to the President, they might well be supposed to arise either from such advice being unnecessary, or perhaps a disposition with some to insist upon the strict pretensions upon the part of the United States, without farther negotiation. But however unnecessary such advice might be, it nevertheless manifested that, in the opinion of twenty-three members of the Senate, not only deserving, but, from the co-ordinate authority of that branch of the executive power in any ultimate arrangement of the subject, commanding, the highest respect, it was yet practicable to ascertain the line of boundary according to the Treaty of 1783, and that it was advisable that the President should enter upon a new negotiation for that object. This resolution, therefore, did not defeat, "so important a measure," to wit, the adoption of the line recommended by the arbiter, which as has been shewn, was defeated before, though it may be admitted to have restricted, for the present at least, the general discretion of the President in his farther efforts to arrange the difficulty, to a negotiation to fix the boundary according to the line of 1783. And it cannot be too often repeated, or too forcibly impressed upon the mind of Sir Charles R. Vaughan, and upon the consideration of his Government, that any attempt to procure the consent of the State of Maine to a new conventional line after the proceedings of the Senate, and while, in the opinion of so large a portion of that body, the ascertainment of the line called for by the Treaty of 1783, was practicable, would have been utterly hopeless.

It is, however, a consideration of even greater importance, in the present state of the discussion, that, as to the practicability of yet ascertaining the true line of the Treaty of 1783, the opinion of the President concurred with that of a majority of the Senate.

The President has been at no time less sensible of the difficulties attending the settlement of this subject, than of the vital importance of its settlement to the future amity between the two nations; and he has never been unwilling to give every evidence of his solicitude to the full extent of his constitutional authority. He duly appreciates the observation of the Committee of the Senate alluded to by Sir Charles R. Vaughan, that it is a question of much perplexity and difficulty: and he has, therefore, always endeavoured to bring his mind to the consideration of the subject with that firmness and fortitude, no less than with the most friendly disposition, necessary to overcome the difficulties with which it is beset. He perceived, however, that in all the previous efforts between the two Governments to ascertain the boundary according to the line of the Treaty of 1783, and in the deliberations of the arbiter, a natural and uniform

rule in the settlement of disputed questions of location had been altogether overlooked, and he perceived no reason to suppose that it had been present to the minds of the respectable Committee of the Senate in making their report. He could not fail to perceive that in every past effort to ascertain the boundary of the Treaty, the chief, if not the only difficulty arose from a supposed necessity of finding highlands corresponding with the description required by the Treaty, to which a line due north from the monument might be drawn; whereas it was plain that if such highlands could be anywhere discovered, it would be a legal execution of the Treaty to draw a line to them, from the monument, by the most direct route, without regard to the precise course given in the Treaty. Not doubting that the adoption of this principle will remove the chief difficulty which has hitherto embarrassed the subject, it became his duty to urge its adoption upon the Government of His Britannic Majesty, as one, and perhaps the best, expedient which remains for ascertaining the line of 1783, to the mutual satisfaction of the parties.

The Undersigned is unable to perceive in the plan proposed anything so complicated as Sir Charles appears to suppose. On the contrary, next to its conformity with the uniform legitimate principles of surveying in such cases, it is chiefly recommended to the approbation and confidence of the President by its entire simplicity. In fact, the plan requires chiefly the mere discovery of the highlands called for by the Treaty of 1783, which being ascertained, the mode of reaching them, upon the principle now suggested, is so simple, and is so clearly delineated in the diagram presented in the letter of Mr. Livingston of the 28th May, 1833, that no observations of the Undersigned could make it plainer. It is presumed that it will not be contended that the difficulty of discovering such highlands is insuperable. The arbiter himself, with the lights before him, is not understood to have found it impracticable, at least to his own satisfaction, to find highlands answering the description of the highlands of the Treaty; his embarrassment arose from not being able to find them in a direction due north from the monument, and certainly it cannot be more difficult for commissioners on the spot, with the fullest means of personal observation, to arrive at a conclusion as to the locality of the highlands, equally satisfactory to their own judgment.

It would appear from Sir Charles R. Vaughan's note, now under consideration, that the Undersigned's answer of the 11th instant, on the constitutional point, is not sufficiently explicit, being "confined," as Sir Charles supposes, to "stating that should a new commission of survey, freed from the "restriction of following the due north line of the Treaty, find anywhere westward "of that line, highlands separating rivers according to the Treaty of 1783, a "line drawn to them from the monument at the source of the St. Croix river, "will be such a fulfilment of the terms of that Treaty as the President can "agree to make it the boundary, without a reference to the State of Maine." The Undersigned finds it difficult to be more explicit upon this point than he has been in his observations already made to Sir Charles R. Vaughan, and which, besides the distinction presented in his note of the 11th instant, consist in the assurance that the Government of the United States have the constitutional authority to establish the line of 1783, which shall be designated as such by the commission contemplated in the proposition submitted under the direction of the President.

The want of authority in the Government of the United States, which has been stated as a difficulty to the adoption of the line recommended by the arbiter, arises from the circumstance that that line is not only confessedly different from the original line called for by the Treaty, but would deprive the State of Maine of a portion of territory, to which, according to the line of 1783, she would be entitled. By the proposition of the President, however, a commission is to be raised, not to recommend or establish a new line different from the Treaty of 1783, but, to determine what the true and original boundary, according to that Treaty was, and in which of the two disagreeing parties the right to the disputed territory, originally was.

For this purpose the authority of the original commissioners, if they could have agreed, was complete under the Treaty of Ghent, and that of the new commission, now to be constituted, cannot be less.

It appears to the Undersigned, from a view of the whole subject, that it imperiously becomes both Governments seriously to consider the present posture



of the affair, and their future amicable relations ; and, in proportion to the difficulties admitted to exist, to cultivate the disposition necessary to surmount them.

It is not contended that either of the high parties are bound to adopt the line of boundary recommended by the arbiter ; and the Senate of the United States have refused, by a vote of great unanimity, to consent to its adoption by the President.

It cannot, with propriety, be contended, that the United States were under greater obligation to take the line recommended by the arbiter, when he himself could not be satisfied of the right of either party, than either Government would have been under, to adopt either of the lines upon which the original commissioners disagreed.

Nothing remains, therefore, but to discard the line called for by the Treaty of 1783, and adopt a new and conventional line, mutually convenient for both parties, or to make a further effort, by means yet untried, but affording reasonable hope of success, to discover the true line of the Treaty of 1783.

To adopt the former alternative the United States have no power without the assent of Maine, and that assent in the present state of the controversy, while there remains a reasonable hope of discovering the true and original boundary, it is not possible to obtain.

It is under such circumstances that the Government of His Britannic Majesty is invited to unite with the President in another effort, aided by the adoption of a plain and easy rule of surveying, to find the line of the Treaty of 1783 ; and thus finally to remove the chief obstacle to that state of amity, which it is so much the interest of both nations to cherish and perpetuate.

The Undersigned, &c.

*Right Hon. Sir C. R. Vaughan,*  
&c.      &c.      &c.

(Signed) LOUIS McLANE.

Inclosure 2 in No. 36.

*Sir C. R. Vaughan to the Hon. Louis McLane.*

*Washington, March 24, 1834.*

THE Undersigned, &c. has the honour to acknowledge the receipt of the note of Mr. McLane, &c., of the 21st instant ; and he feels himself called upon to offer some explanation of the misapprehension, which it appears that he has entertained of the bearing of the several divisions in the Senate, when the award of the King of the Netherlands was under their consideration.

The Undersigned found in the report, which has been published of the proceedings in the Senate on that occasion, the question distinctly taken, and the award rejected by a bare majority of one vote. The division of thirty-five to eight, which Mr. McLane states was decisive upon the award, as it negatived the resolution in the report of the committee which recommended the acceptance, escaped the attention of the Undersigned, in consequence of that question having been divided and encumbered with amendments. Subsequently, a resolution similar to the one in the report of the committee, the Undersigned now finds was rejected by a vote of thirty-four to eight. The inference drawn by Mr. McLane from these two divisions is, that only eight Senators were in favour of accepting the award ; and it had been determined that two thirds of the Senators present must concur in consenting to accept it, which could not, from the nature of the opinions expressed by the arbiter, be carried into effect by the President without the consent of the Senate.

Mr. McLane asserts that the decision of twenty to twenty-one, cited by the Undersigned, had no direct application to the validity of the award, and afforded no indication of the opinion of the award of the twenty Senators who voted for its acceptance, and yet the vote was distinctly taken upon the question, whether the Senate should advise the President to decline to adopt the boundary recommended by His Majesty the King of the Netherlands.

With regard to the observation of the Undersigned, that the mode in which it was proposed by the United States to settle the boundary was complicated, he did not mean to apply it to the adoption of a rule in the settlement of disputed questions of location, but to the manner in which it is proposed by the United States, that the new commission of survey shall be selected and constituted.

The only alternative now being, according to Mr. McLane's note, to decide upon a conventional line of boundary, or to make another attempt to find the line of the Treaty of 1783; and the United States not having the power to adopt the former without the assent of Maine, the Undersigned will seize the earliest opportunity of laying before His Majesty's Government the invitation of the President to make another effort to discover the line of the Treaty.

The Undersigned, &c.

*The Hon. Louis McLane,*  
&c.      &c.      &c.

(Signed) CHAS. R. VAUGHAN.

No. 37.

*Sir C. R. Vaughan to Viscount Palmerston.—(Received July 11.)*

(Extract.)

*Washington, June 12, 1834.*

Mr. McLane has lately expressed to me some impatience to receive the answer of His Majesty's Government to the proposal for settling the boundary.

I begged leave to remind him, that the British Government had not been inattentive to that proposal, that I had had the honour, according to your Lordship's instructions, to invite the acquiescence of the American Government (as a preliminary to any future proceedings) in certain points which were distinctly enumerated, and which it was thought had been satisfactorily decided by the King of the Netherlands. The proposal of the British Government had not been met with that ready concurrence which was expected.

However plain and simple the proposal of the Government of the United States now under the deliberation of His Majesty's Government might at first appear, it varied but little from a renewed attempt (declared to be inadmissible) to trace the boundary according to the Treaty of 1783.

Mr. Jefferson, when President of the United States, acknowledged in a message to Congress, dated 17th October, 1803, that the boundaries established by the Treaty of Paris, in the north-eastern and north-western angles of the United States, were too imperfectly described to be susceptible of execution. Under his administration, a Convention for settling the boundary was signed at London on the 12th of May, 1803, by Lord Hawkesbury and Mr. Rufus King, which the Senate would not consent to ratify; but amongst the documents which accompanied that Convention, when it was submitted to the Senate, are the instructions given by Mr. Madison to Mr. King, in which he observes, that the difficulty in fixing the north-west angle of Nova Scotia, "arises from a reference of the Treaty of 1783, to the highlands which it is now found have no definite existence." The principal object of the plan proposed by the American Government, is to send a new commission in search of these highlands, and the only deviation from the terms of the Treaty is, that the new survey is to be made westward of the due north line which has been fruitlessly explored by the commissioners under the Vth article of the Treaty of Ghent.

I stated to Mr. McLane that I found, upon reference to a map, that the new commission could not find in their course westward any highlands answering the Treaty description of dividing waters flowing into the Atlantic from rivers which empty themselves into the St. Lawrence; as, so far as the latter part of the description was concerned, the high flat land through which the river St. John passes, must intercept any waters in their course from highlands south of that river to the St. Lawrence. If this was foreseen, and if upon the commissioners failing to discover the highlands of the Treaty south of the St. John, it is expected that they are to continue their examination in the territory north of that river, it should be recollected that Great Britain has always maintained, on undeniable grounds, that the United States have no claim to any territory between the St. John and the St. Lawrence. The American Commissioners engaged in negotiating the Treaty of Paris, were instructed according to the "Secret Journals of Congress," that it was not thought advisable to continue the war merely to obtain territory as far as the St. John. In the old charter of Massachusetts Bay there is no mention of the St. John as the boundary of that colony; and in the ancient charter of Nova Scotia, granted to Sir William Alexander in 1638, all the country is included from the Bay of Chaleur to the Kennebec River.



Upon my stating that it was my *private* opinion that if the proposal of the American Government should be accepted, it ought to be with a restriction upon the commissioners to confine their search after highlands to the territory south of the St. John, Mr. McLane observed, that any such condition would amount to a refusal to accept the proposal.

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No. 38.

*Viscount Palmerston to Sir C. R. Vaughan.*

Sir,

*Foreign Office, October 30, 1834.*

HIS Majesty's Government have considered, with all the attention which the great importance of the subject demands, the notes addressed to you on the 11th and 21st of March, by Mr. McLane, Secretary of State for the United States, of which copies were enclosed in your despatches of March 12, and March 28, respectively; and I am commanded by His Majesty to instruct you to make the following answer to those communications.

His Majesty's Government perceives with great satisfaction in the language of Mr. McLane's notes, and in his earnestness in pressing upon His Majesty's Government a proposition believed by the President of the United States to be conducive to an adjustment of important differences between the two Governments, a new proof of the friendly sentiments of the Government of the United States towards that of His Majesty, and a fresh manifestation of a desire to confirm and perpetuate the amicable relations now so happily subsisting between the two countries.

Animated by a similar spirit of cordial friendship towards the President, and Government of the United States, and actuated by an unabated and most anxious desire, to arrive at a settlement of this question of boundary by any means not inconsistent with the honour and with the essential interests of Great Britain, His Majesty's Government in replying to the Notes of Mr. McLane, have determined to abstain from expressing all the regret which they feel, at finding that the American Government still declines to come to a separate understanding on those several points of difference, with respect to which the elements of decision are fully before both Governments. But His Majesty's Government cannot refrain from saying that they regret this circumstance the more, because on the one hand, these points of difference are not beset with such difficulties as attend the ascertainment of the highlands described by the Treaty of 1783, and because on the other hand, the settlement of these points could not fail to facilitate the adjustment of the remaining points of difference, by narrowing the field of discussion, and by clearly establishing some of the data, upon which a right determination of those remaining points of difference must depend. Passing by, however for the present, these subjects of just regret, but without in any degree abandoning the argument contained in my despatch of the 21st December, His Majesty's Government will now address themselves exclusively to that proposition of the President, which is contained in Mr. McLane's notes, and in the previous communications of Mr. Livingston of the 30th April, and 28th May, 1833; the proposition, namely, that new commissioners should be appointed, who should be empowered to seek, westward of the meridian of the source of the St. Croix, highlands answering to the description of those which are mentioned in the Treaty of 1783.

The President founds this proposition on what Mr. McLane represents to be, a plain and universal rule for surveying and laying down the boundaries of tracts and of countries, designated by natural objects. This rule being, first to find the natural object, and then to reach that object by the nearest direct course, from any other given point; and with the least possible departure from the particular course prescribed in the original deed or Treaty in which the boundary is described. The President, it is said, does not doubt that with the aid of more accurate surveys of the ground by skilful persons, highlands answering to the definition of the Treaty, may yet be found, and he adds that "should a new commission of survey, freed from the restriction of following the due north line of the Treaty, find any where westward of that line, highlands separating rivers according to the Treaty of 1783, a line drawn to them from the monument at the source of the St. Croix river, will be such a ful-

“ filment of the terms of that Treaty, as that the President can agree to make “ it the boundary without a reference to the State of Maine.”

His Majesty's Government think it right, with regard to this proposition, in the first place, to say, that however just and reasonable the rule of surveying here stated by Mr. McLane may seem, they do not consider that rule to be so generally established and recognized as Mr. McLane assumes it to be. His Majesty's Government, indeed, do not recollect any case similar to the present in which the principle here asserted has been actually put in practice ; but, on the contrary, they remember a case not merely analogous to that which is now under discussion, but arising out of the same article of the same Treaty of 1783, in which this supposed rule was inverted by the agents of the American Government itself.

The Treaty of 1783 declared that the line of boundary was to proceed from the Lake of the Woods “ in a due west course to the river Mississippi.”

It was afterwards ascertained, by actual survey, that even the sources of the Mississippi lie south of the latitude of the Lake of the Woods, and that, consequently, it would be impossible to reach the Mississippi by any line drawn due west from that lake. In order to escape from the difficulty thus encountered, it was urged by the American commissioners that the natural object, the Mississippi, should be wholly disregarded ; and in the final settlement of that part of the boundary, as it was fixed by the IId Article of the Convention of October 20th, 1818, the principle now contended for by the American Government was reversed ; for, instead of the natural object being made the primary, and the connecting line, the secondary guide ; the natural object, namely, the river Mississippi, was put out of consideration ; and the connecting line, namely, the line to be drawn due west from the Lake of the Woods, was converted into a primary element of the boundary. It was demonstrated that such a line never could reach the Mississippi at all ; but, instead of adhering to the source of the Mississippi as one fixed point, and drawing a new connecting line to it from the Lake of the Woods, which was the other fixed point, the commissioners adhered to the arbitrary line to be drawn due west from the lake, and wholly abandoned the Mississippi, though that river was specifically mentioned in the Treaty as a land-mark.

I have already observed in my despatch of the 21st of December last, that the objection which has been made by the State of Maine to the line proposed by the King of the Netherlands, would seem to be equally applicable to a westerly deviation from the due north line ; but, nevertheless, if the President of the United States is persuaded that, notwithstanding any opposition on the part of the State of Maine, he can carry through, on this occasion, the practical application of the principle of surveying he has proposed, and if, as Mr. McLane alleges, no hope remains of overcoming the constitutional difficulty in any other way, at least until this new proposition shall have been tried and found unavailing, His Majesty's Government are ready to forego their own doubts on this head, and to acquiesce in the proceeding proposed by the President of the United States, if that proceeding can be carried into effect in a manner not otherwise objectionable. But in order to preclude all future uncertainty or cavil on matters upon which differences of opinion have arisen, and may arise again, His Majesty's Government would consider it desirable that the principles on which the new commissioners would have to conduct their survey, should be settled beforehand by a special Convention between the two Governments.

There is, indeed, one preliminary question upon which it is obviously necessary that the two Governments should be agreed, before the commissioners to be appointed could begin their survey, with any chance of success ; and that question is, what is the precise meaning to be attached to the words which are employed in the Treaty to define the highlands which the commissioners are to seek for. A difference of opinion has heretofore existed between the two Governments with respect to that meaning ; and unless the commissioners are agreed upon that point, it is obvious that they never can concur in determining whether any particular highlands which they may meet with in their survey, are actually the highlands intended to be described in the Treaty. Mr. McLane has correctly stated in his note of the 21st of March, that the highlands to be sought for must be *highlands separating rivers, according to the Treaty of 1783*, and in conformity with the words of that Treaty, they must be “ highlands which divide those



“ rivers that empty themselves into the River St. Lawrence from those which “ fall into the Atlantic Ocean.” As, therefore, the highlands intended by the Treaty, are to be distinguished from other highlands by the rivers which flow from them ; and as those distinguishing rivers are to be known from other rivers by the situation of their mouths, it is obvious that the operations of the surveying commissioners can lead to no practical result, unless it be settled beforehand which are the rivers that fall into the St. Lawrence, and which are those that fall into the Atlantic Ocean.

Now, with respect to the rivers which flow northward into the St. Lawrence, no difference of opinion has arisen between the two Governments. But with respect to the rivers which flow southward into the Atlantic Ocean, a difference of opinion has taken place.

The British Government contend that the Treaty of 1783, established a distinction in this respect, between the Atlantic Ocean and the Bay of Fundy, and that rivers falling into the Bay of Fundy, are not, for the purposes of the Treaty, rivers falling into the Atlantic Ocean.

The American Government on the other hand, has maintained, that, for the purposes of the Treaty, the Bay of Fundy is part of the Atlantic Ocean, and that rivers falling into the bay, may be considered to be rivers falling into the ocean.

I do not deem it necessary to recapitulate in this place the conclusive arguments, by which it has been shewn, in the British statements, which were laid before the arbitrator, and which are now in the hands of the American Government, that the framers of the Treaty of 1783, when they used in the second article, the words “ rivers which fall into the Atlantic Ocean,” could not possibly have meant to designate any rivers whose mouths were situate to the eastward of the River St. Croix, which falls into the Bay of Fundy. I think it sufficient on the present occasion to advert, in support of this construction of the words of the Treaty, to the striking fact, that whilst the River St. Mary, which was to form the southern boundary of the United States, is described in the II<sup>nd</sup> Article of the Treaty as falling into the Atlantic Ocean, the River St. Croix, which was to form the eastern boundary, is described, not merely in the same Article of the Treaty, but in the very next member of the same sentence, as falling into the Bay of Fundy ; while a little further on in the same Article, the eastern line of boundary, where it terminates at the mouth of the river St. Croix, and the southern line of boundary, where it terminates at the mouth of the River St. Mary, are described as “ respectively touching the Bay of Fundy and the “ Atlantic Ocean.” Can it be seriously maintained that, in a Treaty for settling a question of such vast importance, as a boundary between two contiguous States, a matter which of all others imperiously requires preciseness of expression, the terms “ Bay of Fundy,” and “ Atlantic Ocean,” should have been thus set, not once only, but twice in the same Article, in pointed opposition to each other, and yet that no real distinction should have been intended to be drawn between them ; but that the “ Bay of Fundy,” and the “ Atlantic Ocean,” should have been carelessly used as synonymous and convertible expressions ? His Majesty’s Government conceive that no reasonable doubt can be entertained that where the St. Croix, the eastern limit of the United States, is described as falling into the Bay of Fundy, it is advisedly so described, in contradistinction to the other rivers which are mentioned in the same Article, as flowing into the Atlantic Ocean. But, if the St. Croix, whose mouth is situate at the very entrance of the Bay of Fundy, is not an Atlantic River in the meaning of the Treaty, none of the rivers which discharge themselves to the eastward of the St. Croix, and higher up in the Bay, can possibly be considered as such.

The view which has uniformly been taken of this question by His Majesty’s Government, has lately received additional confirmation by the terms of the award of the King of the Netherlands. The opinion expressed in that document, that the Rivers St. John and Ristigouche are not Atlantic Rivers, according to the meaning of the Treaty, although it may not be accepted by the Government of the United States, as carrying with it the authority of an award, is at least, to use the language of the report of the Senate of the United States, “ the impartial “ opinion of a disinterested judge selected by both parties to settle a question of “ great perplexity.”

Considering then the force of the arguments which I have here either stated

or referred to, and adverting to the fact that those arguments have been confirmed by the opinion of an impartial authority selected by the common consent of the two Governments, His Majesty's Government trust that the American Cabinet will be prepared to agree with that of His Majesty, as to the construction to be put upon this passage of the Treaty, and will concur in deciding that the Atlantic Rivers which are to guide the commissioners in searching for the highlands described in the Treaty, are those rivers which fall into the sea to the westward of the mouth of the River St. Croix.

You will represent to Mr. McLane that His Majesty's Government, consider a clear agreement between the two Governments on this point, to be an indispensable preliminary to the establishment of any new commission of survey. Till this point is decided, no survey of commissioners can lead to any useful result; but the decision of this point, turns upon the interpretation of the words of a Treaty, and not upon the operations of surveyors; and, His Majesty's Government having once submitted this point, in common with others, to the judgment of an impartial arbitrator, by whose award they have declared themselves ready to abide, they cannot now consent to refer it to any other arbitration.

I am, &c.

Right Hon. Sir C. R. Vaughan,  
&c.      &c.      &c.

(Signed) PALMERSTON.

### No. 39.

*Sir C. R. Vaughan to Viscount Palmerston.—(Received December 8.)*

My Lord,

*Washington, November 12, 1834.*

THE Secretary of State, Mr. Forsyth, requested to see me on the 6th instant, when he stated that the President had directed him to ascertain whether I had received the answer of His Majesty's Government to his proposition for settling the boundary. That he was under an expectation of receiving an answer upon referring to the notes of Mr. McLane of the 11th and 23rd of March last, copies of which I had the honour to transmit in my despatches of March 12 and March 28.

I reminded Mr. Forsyth that the persuasion which had been expressed by Mr. McLane in his notes, that His Majesty's Government would be disposed to co-operate with the President in another effort for the adjustment of the boundary according to the proposition of Mr. Livingston, was appended to an official refusal of the United States to acquiesce in certain preliminary points, to which it was necessary that the two parties should agree, before His Majesty's Government could advert to the proposition of Mr. Livingston; and they were of opinion, as it was clearly stated, that no useful result could be obtained from a new survey until the two parties acquiesced in seven points which were enumerated, and upon which decisions had been made by the King of the Netherlands.

By referring to the correspondence, I observed to Mr. Forsyth, that he would at once see the difficulties which the refusal of the United States to acquiesce in the points submitted by your Lordship must have thrown in the way of giving a decisive answer to Mr. Livingston's proposition.

His Majesty's Government have declared their conviction, that it is useless, after all that has passed, to attempt to trace the line of boundary by the description which is given of it in the Treaty of 1783; yet the only deviation from the terms of the Treaty, which is admitted in the proposition of Mr. Livingston, is a departure from the due north line, but the material point is still strictly adhered to, that of finding the highlands which are designated as the north-west angle of Nova Scotia. With regard to the highlands, I reminded Mr. Forsyth that in 1802 Mr. Madison had acknowledged that they had "no definite existence," and the King of the Netherlands had confirmed the opinion given in the British statements, that the north-west angle of Nova Scotia was unknown when the Treaty was concluded in 1783.

Mr. Forsyth observed, that he was not yet prepared to enter into a discussion of the question of boundary. In proof of the sincere desire which actuated His Majesty to settle the boundary so long disputed, I referred Mr. Forsyth to the sacrifices which His Majesty was ready to make by adopting the line of boundary proposed by the King of the Netherlands. Mr. Forsyth seemed to me



to regret the rejection of that line, and, upon referring to the debates in the Senate, I find that he voted for the adoption of it.

I observe in your Lordship's first despatch of the 21st December, 1833, that the British Government is still willing to adopt that line. I should wish to be prepared to meet any overture which may be thrown out during the next session of Congress for revoking the rejection of that line by the Senate, which entirely released His Majesty's Government from any obligation implied by the terms of the VIIth Article of the Convention of Arbitration.

It should be remembered that the north-eastern boundary of the United States is carried by the line proposed by the King of the Netherlands beyond the river St. John, and the denial of the claim of the United States to pass to the north of that river is one of the strongest points maintained in the British statements. It is true that one object of interest to Great Britain, in this question of boundary, is secured by it, namely, an uninterrupted communication between Halifax and Quebec, but the line proposed by the King of the Netherlands passes from the St. Francis River to join the line assumed by the American commissioners under the Treaty of Ghent, which leaves, in its course to the Connecticut River, a narrow strip of land to Great Britain, upon the right bank of the St. Lawrence, in some places not more than thirteen miles wide.

Though the communications received from the Government of the United States, shew a marked desire to remove the possibility of the relations between the two Governments being disturbed by the boundary being left in its present state, they still persist in restricting any negotiation to the impracticable object of tracing the boundary strictly according to the description of it laid down in the Treaty of 1783. They have refused to facilitate the adjustment of the controversy by acquiescing in the preliminary points submitted to their consideration by your Lordship not long since; and it is to be hoped some proposal of compromise, more likely to end in a satisfactory result than their last proposition, will ultimately be made by them.

I have the honour, &c.  
(Signed) CHAS. R. VAUGHAN.

Viscount Palmerston, G.C.B.  
&c. &c. &c.

No. 40.

*Sir C. R. Vaughan to Viscount Palmerston.—Received December 24.)*

My Lord,

*Washington, November 27, 1834.*

HAVING been induced to draw up a summary of the proceedings between the British Government and that of the United States, since the Treaty of Ghent, for the settlement of the boundary, I take the liberty of transmitting a copy of it to your Lordship.

I trust that your Lordship will excuse my calling your attention to the inclosed paper, but I am at a loss to account for the little progress which I have made towards settling the question of boundary since I returned to Washington, and there is every reason to believe, that it will be brought before congress, before the close of the approaching session.

I have the honor to be, &c.  
Viscount Palmerston, G. C. B. (Signed) CHAS. R. VAUGHAN.  
&c. &c. &c.

Inclosure in No. 40.

*Summary of the Proceedings for settling the north-eastern Boundary of the United States, with observations upon the present state of that question with the American Government.*

BY the 5th Article of the Treaty of Ghent, which was concluded on the 24th December, 1814, it was agreed that Commissioners should be appointed to

trace the line of boundary between His Majesty's North American possessions and the United States, as designated in the Treaty of 1783.

The Commissioners were named in 1816, and they held their first meeting at St. Andrews, in New Brunswick, on the 23rd of September of that year, and they held their last meeting, after which they adjourned, on the 13th April, 1822, having entirely differed from each other in their views of the line to be established. It was agreed by the Treaty of Ghent, that in that case, the Commissioners should make their reports to their respective Governments. The reports of the British Commissioners is dated 23rd October, 1820; and that of the American Commissioners, 13th April, 1822.

It was also agreed by the Treaty of Ghent, that the differences of the Contracting Parties should be submitted to the arbitration of some friendly Sovereign, in the event of the Commissioners failing to ascertain the line of boundary intended in the Treaty of 1783, and a Convention of Arbitration was concluded at London on the 29th September, 1827.

His Majesty the King of the Netherlands accepted the invitation of both parties "to be pleased to take upon himself the arbitration of their differences."

It was agreed, that instead of the voluminous and complicated reports of the Commissioners of Boundary under the 5th article of the Treaty of Ghent, new statements should be submitted to His Majesty the arbiter. The first statements were interchanged between the respective Governments in the course of the year 1829, and they were delivered, together with their final statements, to the King of the Netherlands, in the course of the year 1830.

In these statements, the arguments of both parties were directed to the maintaining of the respective lines of boundary assumed by their Commissioners under the 5th article of the Treaty of Ghent.

Three points were submitted to the arbiter as the points of difference between the two countries.

His Majesty the King of the Netherlands was called upon to decide from these statements,

1st. What was to be considered as the point designated in the Treaty of 1783, as the north-west angle of Nova Scotia, and the line of boundary to be traced thence according to the Treaty of 1783, along the said highlands to the most north-western head of the River Connecticut.

2nd. Which is to be considered as the most north-western head of the Connecticut.

3rd. Whether the boundary line from the Connecticut along the forty-fifth degree of north latitude to the River St. Lawrence, ought not again be surveyed and laid down afresh.

With regard to the first point of difference it was contended in the British statements, in conformity with the report of the British Commissioners under the 5th Article of the Treaty of Ghent, that the north-west angle of Nova Scotia of the Treaty of 1783, was to be found upon the first highlands with which they met, at Mars Hill, forty-three miles from the source of the River St. Croix, where they terminate their due-north line of the Treaty. They proceeded to draw thence according to that Treaty, a line along the broken chain of hills trending westward from Mars Hill to what they considered to be the north-westernmost head of the Connecticut River. This line passed at the heads of the Rivers Penobscot, Kennebec, and Androscoggin, which were considered by them to be the rivers designated in the Treaty of 1783, as falling into the Atlantic Ocean, and that they were divided from rivers emptying themselves into the River St. Lawrence, not immediately, but the line being drawn according to Treaty, "along the said "highlands," and those highlands terminating westward at the distance of nearly 100 miles from Mars Hill in high land which separates the Chaudière river which empties itself into the St. Lawrence, from the Kennebec river which falls into the Atlantic, they mediately divide rivers emptying themselves into the St. Lawrence, and therefore sufficiently comply with the terms of the Treaty of 1783.

With regard to the second point of difference, Great Britain contended for establishing the source of the stream which flows into the uppermost lake above Connecticut Lake, as the most north-western head of the Connecticut River.

With regard to the third point of difference in the British statements, it is



contended that the forty-fifth parallel of latitude from the Connecticut to the St. Lawrence, ought to be again surveyed and laid down afresh.

In the American statements it is contended, with regard to the first point of difference, that the north-west angle of Nova Scotia is to be found at a point 144 miles from the source of the St. Croix, following a due-north line, and sixty-six miles beyond or north of the River St. John; that the north-eastern boundary of the United States ought to be traced thence along the elevation of land which lies to the north of that river, leaving in its course to the source of the Connecticut a narrow strip of land to Great Britain, upon the right bank of the River St. Lawrence, in some places not more than thirteen miles wide.

With regard to the second point of difference, it is contended in the American statements, that the head branch of Indian stream should be considered as the north-westernmost source of the Connecticut; and with regard to the third point, instead of consenting to a fresh survey of the forty-fifth parallel of north latitude, the United States adhere to the survey of Valentine and Collins made in 1771-1772. Upon which line it is stated, that a Governor of New York, in 1775, gave a grant of 20,000 acres of land.

The award of the Arbiter, the King of the Netherlands, was delivered at the Hague on the 10th of January, 1831.

His Majesty determined that the documents exhibited, and the vague and indeterminate stipulations of the Treaty of 1783, did not permit him to adjudge either of the lines of boundary assumed by the respective parties in their statements. His Majesty, it may be collected from the award, was of opinion, that the term highland, applies not only to a hilly or elevated country, but also to land, which, without being hilly, divides waters flowing in different directions;—"that the verb divide, appears to require the contiguity of the objects to be divided;"—that the ancient delimitation of the British provinces does not afford the basis of a decision; that the source of the St. Croix River, with which the north-west angle of Nova Scotia ought to coincide, was determined only by the declaration of 1798, which indicated that river; that the instructions of congress, when the Treaty of 1783 was negotiating, locate the said angle at the source of the River St. John; that according to Mitchell's map, the latitude of that angle is upon the banks of the St. Lawrence, consequently, that the north-west angle of Nova Scotia was unknown in 1783, unascertained by the Treaty of Ghent, and still remaining to be found.

With regard to the second point of difference submitted to the arbiter, His Majesty decided that the stream situated furthest to the north-west of the streams, falling into three lakes, the last of which bears the name of Connecticut Lake, must be considered as the north-westernmost head of Connecticut River.

With regard to the third point of difference, the survey afresh of the line of boundary from the Connecticut to the St. Lawrence, along the 45th parallel of latitude north; the arbiter decided, that it would be proper to proceed to fresh operations to measure the latitude.

As His Majesty the King of the Netherlands was unable, from the documents laid before him, to adjudge either of the lines assumed by the respective parties, he suggested a line of boundary which he conceived it would be expedient for them to adopt.

This line passed in a due north direction, from the monument erected at the source of the St. Croix River, in 1798, to the centre of the River St. John, up that river to the mouth of the River St. Francis, and up the St. Francis River to its source, north of the St. John, and thence till the line should meet the one assumed by the American commissioners under the fifth article of the Treaty of Ghent, when both lines were to be united in one and the same to the source of the Connecticut River.

This line of boundary, proposed by the arbiter, was most disadvantageous to Great Britain, as it conferred upon the United States three-fifths of the territory in dispute, and it carried their north-eastern boundary beyond and to the north of St. John; while Great Britain insists that the account which has been published in the United States of the negotiations of Paris, which ended in the Treaty of 1783, proves that the United States can have no claim to any territory north of the River St. John.

Besides, the arbiter chose at the same time to propose that Rouse's Point, long since abandoned by the Americans, as clearly within the degree of latitude which was to be the boundary of the British possessions in Lake Champlain, according to the Treaty of 1783, should be restored to the Americans without any apparent reason or equivalent.

His Majesty's Government, in order to put an end to this long dispute about the boundary, did not hesitate to announce to the Government of the United States, their willingness to acquiesce in the line proposed by the King of the Netherlands, in fulfilment of the obligations contracted under the Convention of Arbitration, by the 7th article of which the parties agreed that "the decision of the arbiter, when given, shall be taken as final and conclusive; and it shall be carried without reserve into immediate effect."

The award of the arbiter was delivered at the Hague on the 10th of January, 1831; and on the 12th of that month, Mr. Preble, the American Minister to the Netherlands, without any reference to his Government delivered a protest against it, in order, as he stated, that he might not be presumed to acquiesce in proceedings which were a departure from the power delegated to the arbiter by the parties interested.

Mr. Preble being a native of the State of Maine, which is the State most interested in the decision of the question of boundary, and he having been employed to draw up, with Mr. Gallatin, the final statement to be laid before the arbiter, his protest was calculated to influence the final decision of his Government.

He denied that authority had been given to the arbiter to determine what boundary should be established, if the Treaty of 1783 could not be executed according to its stipulations; and he asserted that such a substitution of boundary had been steadily resisted at Ghent and at Washington.

He denied that the "*ligne des versants*" claimed by the Americans on the border of the St. Lawrence, and the "*ligne des versants*" claimed by Great Britain at Mars Hill, (which he describes as an isolated hill) equally well comport, as the arbiter conceived, with the language of the Treaty.—That no rivers can empty themselves into the St. Lawrence from the highlands claimed by the British, as either the river St. John, or the river Restigouche must intervene.

The award of the arbiter, and the protest of Mr. Preble were communicated at the same time by him to the Governor and Legislature of his native State, that of Maine, and resolutions were passed to prevent, if possible, the President from acquiescing in the line proposed by the arbiter.

Though it was generally understood that the President of the United States was disposed to abide by the award of the arbiter, he avoided the responsibility of deciding upon its validity and when the congress assembled at Washington in the month of December, 1831, he submitted the award to the Senate for their counsel and advice. It was referred to the committee on foreign relations, and Mr. Tazewell, the chairman, made a report on the 21st March, 1832, which concluded with a resolution that the Senate should advise the President, to acquiesce in the decision of the King of the Netherlands. It was not until the 23rd June, 1832, that the Senate came to a vote upon that resolution of their committee, when it was negatived by thirty-five to eight, being more than a majority of two thirds of the Senators present, which is necessary, according to the constitution, to decide questions involving the participation of the Senate with the Executive in transactions with Foreign States. A question favourable to a settlement of the point was afterwards put in another form, and was negatived only by a majority of one.\*

The reason given to His Majesty's Government for the rejection of the decision of the arbiter, in a note from the Secretary of State, Mr. Livingston, dated 21st July, 1832, were, that the Senate could not advise and consent to the execution of the award, because the decision of the arbiter was not considered as obligatory—that His Netherland Majesty not being able, consistently, with the evidence before him, to declare the line of boundary intended by the Treaty, had abandoned the character of arbiter, and had assumed that of a mediator, advising both parties that a boundary which he described should be accepted as one most convenient to both of them.

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\* See Mr. McLane's explanation of this Vote, p. 54, and Sir Chas. Vaughan's observations upon it, p. 56.



It was stated also in the same note, that the line of boundary suggested by the King of the Netherlands trenches on the State of Maine, and that State controverts the constitutional power of the General Government to circumscribe its limits without its assent.

The Senate, after having rejected the award, recommended it to the President by a majority of twenty-three to twenty-two, to offer to the British Government to open a new negotiation at Washington for the settlement of the boundary, but they restricted the President to treat only for a boundary such as it is described in the Treaty of 1783. At the same time it was intimated by the Secretary of State in his note, dated 21st July, 1832, that arrangements were in progress between the General Government and the State of Maine, which would relieve the former from the constitutional difficulties that have hitherto attended the establishment of a boundary, more convenient to both parties than that designed by the Treaty, or that recommended by His Majesty the King of the Netherlands.

The offer to open a new negotiation at Washington was accompanied by a new pretension brought forward by the Senate, and which was represented by the Secretary of State to be equally conducive to a good understanding between the two Governments as the settlement of the boundary question, namely, the cession to the United States of the free navigation of the River St. John and its tributary streams.

The British Government was convinced that it was useless, after all that had passed, to attempt to trace the boundary according to the description of it in the Treaty of 1783, but that was the only basis upon which the President could treat, and that basis was inadmissible.

With regard to the constitutional difficulty started by the State of Maine, that State could have no other title to the disputed territory, than that to be derived from the Treaty of 1783, and if the Treaty is found to have left that title imperfect, the assumption that the territory claimed under it is the territory of Maine, falls to the ground. It should be remembered that the line proposed by the King of the Netherlands was traced entirely through the territory which has remained in dispute since the conclusion of the Treaty of 1783, and no part of which has been ever yet withdrawn from the exclusive possession of Great Britain.

With regard to the new pretension of the navigation of the River St. John, His Majesty's Government declared that it was impossible to admit the principle upon which it was attempted to treat that question as necessarily connected with the boundary question.

In a note from Mr. Livingston, the Secretary of State, dated 30th April, 1833, it was stated that the navigation of the river St. John was introduced only in the view of its forming a part in the system of compensation in the negotiation for a more convenient boundary, if that of the Treaty of 1783 should be abandoned, and that the Government of the United States consented not now to insist upon it.

With regard to the arrangements announced by Mr. Livingston to be in progress between the General Government and the State of Maine, an account of the proceedings of the Governor and Legislature of that State has been given in the American Annual Register for 1831, 1832, published at Boston 1833.

It appears that a message was delivered on the 24th February, 1832, by the Governor of Maine to the House of Representatives of that State, informing them that he had been given to understand that the award of the arbiter would be eventually adopted by the General Government, and that it had been proposed that Maine should cede to the United States her claim to the territory which lies northward and eastward of the line recommended by the arbiter for an ample indemnity, in order that the General Government might make such arrangement with Great Britain as should comport with the interests of the United States. The Governor therefore submitted to the Legislature the expediency of authorizing their agent at Washington to make an arrangement for an indemnity with the General Government, which would relieve their relations with Great Britain from much embarrassment, and put an end to those collisions with the British authorities, which, if continued, must inevitably prevent the settlement of the territory, and endanger the peace of the nation. It was declared by the Governor, that it was the decided and unanimous opinion of the agent of Washington, and of the delegation of the State in congress, that such an arrangement should be made by which the State would be amply remunerated in a pecuniary point

of view for the loss to be sustained, and the principle would not be abandoned for which the State had contended that the United States, or General Government, have not the constitutional power to alienate any portion of the territory of a State without its consent.

It was at the same time recommended by the Governor, that the State of Massachusetts should be invited to unite in the proposed arrangement. The whole territory of the State of Maine was formerly a part of Massachusetts, which purchased in the year 1674, the grant of Charles I, of the province or county of Maine to Fernando Gorges, and that State, by the act of separation, retained the fee simple of a moiety of the wild lands, but, the residue and the entire sovereignty and jurisdiction was vested in Maine, which was admitted into the Union on the 15th March, 1820, having been thus constituted a separate State by a cession of a part of Massachusetts.

The legislature of Maine promptly acceded to the measure recommended by their Governor, but the legislature of Massachusetts declined to co-operate, as the Governor of Maine refused to communicate some confidential letters received from their agent at Washington.

When further explanation was required of the arrangement alluded to with Maine, the answer was in Mr. Livingston's note of the 21st July, 1832, that the anticipation entertained of that arrangement had not been realized.

The American Government did not consider it hopeless to discover the boundary intended by the Treaty of 1783, and it was proposed to avoid the difficulties arising from the prejudices of negotiators in favour of the construction put upon the Treaty by their respective Governments, and the want of local knowledge which may have countervailed the advantage which was to be derived from a sovereign arbiter, by appointing a new commission consisting of an equal number of commissioners, with an umpire, selected by some friendly sovereign, from amongst the most skilful men in Europe, to decide, on all points, on which they disagree; or by a commission entirely composed of such men, so elected, to be attended in the survey and view of the country, by agents appointed by the parties. "Impartiality, local knowledge, and high professional skill would thus be employed, which, though, heretofore separately called into the service have never before been combined for the solution of the question."

In a note from Mr. Livingston, dated 28th May, 1833, it is stated in further development of his proposal, that the President is willing that the commission shall be restricted to the simple question of determining the point designated by the Treaty, where highlands divide the rivers mentioned in the Treaty, to which point wherever it may be found, a straight line shall be drawn from the monument at the source of the St. Croix, and that this line, as far as it extends, shall form part of the boundary in question: that they shall then trace the line along the highlands and fix on the point designated as the north-western-most head of the Connecticut River.

At the same time that it was thus proposed that the new commission should be authorized to discard the due north line from the St. Croix River of the Treaty, any deviation from it eastward, or on the side of New Brunswick, was provided against. In a note from the successor of Mr. Livingston, as Secretary of State, Mr. McLane, dated 5th June, 1833, it is stated no limitations were to be put upon the course to be pursued by the new commission, but such as are required by a faithful adherence to the description of boundary in the Treaty of 1783. The Commissioners are to seek for and find, in the first place, the highlands which divide those rivers that empty themselves into the River St. Lawrence, from those which fall into the Atlantic Ocean, and when these shall be found in any part of the disputed territory, north or south of the St. John River, a line is to be drawn from the monument to that point of the said highlands which shall be nearest to the due north line.

After an attentive and deliberate consideration of the communications on the subject of boundary made by the Government of the United States, the British Minister was instructed, in a despatch dated 21st December, 1833, received at Washington on the 10th February following, to draw the attention of the Government of the United States, to some considerations, before adverting to the proposition for a new commission of survey,

Nothing, it was stated, but a sincere spirit of conciliation could have induced His Majesty's Government to adopt the arrangement recommended by the King of the Netherlands, because the boundary he proposed would assign to the United



States more than three-fifths of that disputed territory, to the whole of which, according to the terms of the award itself, the title of the United States is defective in the same degree as that of Great Britain.

The first point submitted to the arbiter was, which is the spot designated in the Treaty as the north-west angle of Nova Scotia; and which are the highlands dividing rivers that empty themselves into the St. Lawrence, from rivers falling into the Atlantic, along which highlands the line of boundary is to be drawn to the north-west head of the Connecticut River.

The second point, which is the north-western head of the Connecticut river.

The third point, which is the boundary to be traced from the river Connecticut, along the parallel of the 45th degree of north latitude to the river St. Lawrence.

The failure to decide the first point ought not to invalidate the decision given by the arbiter upon the second and third points. Upon the first point he has declared that it is impossible to find a spot, or to trace a line which shall answer the description in the Treaty, of the highlands, and of the north-west angle of Nova Scotia, but in the course of his reasoning upon these points, His Majesty's Government were of opinion that the arbiter had decided several questions upon which the two parties entertained different views, and that the spirit of the agreement, to make the reference, requires, that they should acquiesce in these decisions, their doing which will clear away several points of difference and facilitate the amicable adjustment of the remaining.

1st. The arbiter is of opinion that the term "highlands" may be applied to a tract of land, which, without being hilly, divides waters flowing in different directions.

2nd. The arbiter has expressed his opinion that it is of no use to enquire what were the ancient boundaries of the North American Provinces, which were not maintained by the Treaty of 1783, and had never been distinctly ascertained.

3rd. The north-west angle of Nova Scotia had not been ascertained, nor was it known in 1783; it is an angle still to be found.

4th. No argument can be adduced from the exercise of the rights of sovereignty, over the fief and over the settlements of Madawaska.

5th. The highlands should divide immediately and not mediately, rivers flowing into the St. Lawrence from rivers flowing into the Atlantic.

6th. Rivers falling into the Bay of Chaleurs, as the Restigouche does, or into the Bay of Fundy, as does the St. John, cannot be considered as rivers flowing into the Atlantic.

7th. Neither the line of boundary claimed by Great Britain, nor that claimed by the United States, can be adjudged as the true line.

His Majesty's Government were willing to restore Rouse's Point, but they conceived that it would be necessary to adopt the decision of the arbiter upon the above-enumerated seven points, before any satisfactory or useful result could be obtained from the local survey proposed by the American Government.

His Majesty's Government thought that they were entitled to claim from the Government of the United States an acquiescence in these decisions, as they are enumerated, of the arbiter; and that as a preliminary to any attempt to settle the remaining points by negotiation, they ought to be satisfied that the General Government is possessed of the powers necessary for carrying into effect any arrangement upon which the two parties might agree. The difficulty which prevented the United States from acquiescing in the determination of the King of the Netherlands, namely, that His Netherlands Majesty's proposed line of boundary did not agree with that which is described in the Treaty, would equally apply to a line drawn, as Mr. Livingston has proposed, to the westward of the line mentioned in the Treaty as to be drawn due north from the source of the River St. Croix.

The President of the United States declined acquiescing, as proposed by His Majesty's Government, in the seven above-mentioned decisions, growing out of the first point of difference submitted to the arbiter; and the President also denied that the two remaining points of difference between the two countries which had been submitted to the arbiter had been decided, as assumed by His Majesty's Government.

The Secretary of State, Mr. McLane, in his answer, dated 11th March, 1834,

expressed his regret that it should still be considered by His Majesty's Government that any part of the opinion of the arbiter is obligatory upon either party. The only proposition in which the United States was disposed to acquiesce, was the adoption of the stream decided by the arbiter to be the north-westernmost head of the Connecticut River; and this only on condition that His Majesty's Government should accede to Mr. Livingston's proposal for a new commission of survey.

With regard to the third point, which His Majesty's Government thought sufficiently decided by the arbiter, who recommended that the parallel of the 45th degree, north latitude should be re-surveyed, the United States insist upon adhering to the survey of Valentine and Collins, because grants of land have been made by the respective Governments on both sides up to that line. That line, of Valentine and Collins, the president would consent to adopt, if his proposition should be embraced for a new survey.

To acquiesce in the seven subordinate points would be, in the opinion of Mr. McLane, to defeat the ascertainment of the boundary, according to the Treaty of 1783, which was the object of the president's proposition, and would confine the negotiations, in limine, to a conventional line, for which the institutions of the United States would not permit the president to treat, and which cannot be resorted to until it is found impracticable by the proposed commission of survey to trace the boundary according to the Treaty of 1783, and then it is a measure which can only be adopted with the special assent of the State of Maine.

No notice is taken of His Majesty's willingness to cede Rouse's Point as one of the preliminaries. Mr. McLane observes in his note, that the arbiter has expressed his opinion "that it will be suitable to proceed to fresh operations to measure the observed latitude; but in such a manner that the fort at Rouse's Point shall be included in the territory of the United States."

No satisfactory answer was given in Mr. McLane's note, to the enquiries of the British Government, respecting the power of the president to make a final arrangement. It is stated only that, should the new commission succeed in finding highlands separating rivers according to the Treaty, the president can agree to make the line drawn to them the boundary, without reference to the State of Maine, because it will be a line traced sufficiently, according to the Treaty of 1783.

The president of the United States having in a message, July 1834, to Congress, characterised the correspondence which had been carried on under the instructions of Lord Palmerston, since the month of April 1833, respecting the boundary, as a negotiation which had been in progress ever since; the British Minister at Washington was instructed to be prepared, should any communication be made to him from the President on the question of boundary, to declare that His Majesty's Government considered the communications which they have made to the American Government, as having turned entirely upon preliminary points, and as having left the two parties equally free, as to the question whether fresh negotiations shall now be entered into for the settlement of the matters in dispute, and also as to the choice of place where such negotiations are to be held.

The preceding summary of the proceedings for settling the north-eastern boundary of the United States, clearly shows that the delay in adjusting the differences between Great Britain and the United States is not attributable to the former, but to the determination of the United States to adhere to an impracticable mode of settling it, namely, the tracing of the line of boundary, according to the description laid down in the Treaty of 1783. This was the only basis of the new negotiation offered by the President, to be opened at Washington, after the rejection by the Senate of the line of boundary proposed in the award of the King of the Netherlands, as a suitable compromise, and which Great Britain had announced her willingness to adopt, though it would sacrifice part of her just claims. To this inadmissible basis of a new negotiation, a new pretension was added, as equally conducive to the preservation of the good understanding between the two nations, namely, the navigation of the river St. John and its tributary streams, though the whole course of that river from its source to its mouth, flows through a country hitherto in the exclusive possession of Great Britain. As Great Britain refused to admit the principle of treating about the navigation of the St. John, as necessarily connected with the question of boundary, that pre-



tension was withdrawn, and the proposal subsequently made to constitute a commission of survey to search after highlands and the north-west angle of Nova Scotia ; with this only deviation from the description in the Treaty of 1783, that the commissioners should not be restricted to the due north line, as is stated in the Treaty, but should be allowed to explore the country anywhere westward of that line. This is not such a deviation from the strict terms of the Treaty as can lead to a hope, after all that has passed, that a new commission will discover the features of the boundary, as they are described in the Treaty of 1783.

The delineation of the limits of the ancient and original settlements of European States in North America, was necessarily vague and obscure. The British settlements at first were divided into North and South Virginia. That part of New Brunswick involved in the question of the north-eastern boundary of the United States, was formerly the French Province of Acadie, which was ceded to Great Britain by the 12th article of the Treaty of Utrecht ; and the limits of that province were a source of controversy between Great Britain and France, until the cession of the remaining French North American possessions by the Treaty of 1763. Afterwards the uncertainty of the delimitations of the North American settlements was a constant source of altercation between their provincial Governments.

In this state of uncertainty of the colonial limits, and no actual survey of the country having taken place, the commissioners who framed the Treaty of 1783, were called upon to trace a boundary between provinces which were to remain in possession of Great Britain, and provinces which were constituted by that Treaty into independent states, with no better map of the country before them than the one published in 1755, by Mitchell, under the protection of General Pownel, governor of New England.

One of the thirteen colonies acknowledged by the Treaty of 1783, by Great Britain, to be independent, was that of Massachusetts Bay. It would be reasonable to conclude that the chartered limits of Massachusetts would at once define the intended north-eastern boundary of the United States, but the limits between Nova Scotia and Massachusetts had never been established, and when the Treaty of 1783 was made, the charter of William and Mary, of 1691, was in force, which incorporated into one province by the name of the province of Massachusetts Bay in New England, the old colony of Massachusetts Bay—the colony of New Plymouth—the province of Maine—the territory called Acadie, or Nova Scotia—and all the lands lying between Nova Scotia and Maine.

According to the interpretation of this charter by the United States, the river St. Lawrence was the northern boundary of the United States. But it never could be the intention of the framers of the Treaty to confer upon the United States all the territory included in the charter of 1691. Their object was to draw a new line, and the arbiter, the King of the Netherlands, after a due consideration of the statements submitted to him, declared in his award that the arguments drawn from the ancient delimitation of the provinces were inconclusive.

With regard to the accuracy with which the boundary was described in the Treaty of 1783, no less than four articles of the Treaty of Ghent contain provisions for ascertaining and tracing, by special commissions, as many portions of the line of boundary intended in the former. With regard to the north-eastern boundary of the United States, still disputed by the respective parties, the point of departure was confidently laid down in the Treaty as at the source of the St. Croix river, but the river which was to be considered as the St. Croix river of the Treaty was not ascertained until 1798, by a commission constituted under a Treaty concluded in 1794.

The defective description of the boundary in the Treaty has been acknowledged by both parties. The north-eastern boundary of the United States, depends upon ascertaining the position of highlands, dividing rivers which empty themselves into the river St. Lawrence from rivers which fall into the Atlantic Ocean. Upon such highlands the north-west angle of Nova Scotia, according to the Treaty, is to be found.

In the year 1802, Mr. Madison, at that time Secretary of State for the United States, in his instructions to Mr Rufus King, who signed a Convention with Lord Hawkesbury, in London (which was never ratified by the United States) observed, that the difficulty in fixing the north-west angle of Nova Scotia

“ arises from a reference in the Treaty of 1783, to highlands which it is now found have no definite existence.”

In a message to Congress, dated October 17, 1803, the President of the United States, Mr. Jefferson stated, that “ a further knowledge of the ground in the north-eastern and north-western angles of the United States, has evinced that the boundaries established by the Treaty of Paris, between the British territories and ours, in those points, were too imperfectly described to be susceptible of execution.”

Commissioners of boundary, under the fifth article of the Treaty of Ghent, in the month of September, 1816, assembled to explore the due north-line from the source of the St. Croix, and when they finally adjourned their meetings on the 13th of April, 1822, they could not agree upon the position of the highlands, and of the north-west angle of Nova Scotia, of the Treaty of 1783.

Since the reports of the commissioners were delivered to their respective Governments, the King of the Netherlands has declared it to be his opinion, after a due consideration of the statements submitted to His Majesty, that the north-west angle of Nova Scotia was unknown when the Treaty of 1783 was concluded.

Thus it appears, that after upwards of fifty years of controversy, the point of the highlands due north of the source of the St. Croix River, designated in the Treaty of 1783, as the north-west angle of Nova Scotia, has not yet been ascertained. Yet after all that has passed, the United States persist in restricting any negotiation between the two countries for settling the boundary to a renewed effort to trace their north-eastern boundary according to the description of it laid down in the Treaty of Paris. They attribute the failure hitherto to ascertain that line to the neglect of the common rules usual in surveying, in order to settle disputed locations, which consists in finding, first, the natural object to which the line of boundary is to be drawn. The natural object in the Treaty of 1783 is, the highlands which have hitherto been sought for upon the due north line from the St. Croix. It is now proposed by the United States to send a special commission, selected from scientific persons in Europe, with permission to discard the due north-line of the Treaty, and to explore the disputed territory in search of the highlands any where westward of that line ; and in answer to the suggestion that the State of Maine may object to any such departure from the strict terms of the Treaty, it is stated that a line drawn from the St. Croix to highlands, wherever they may be found, west of the north-line, and either south or north of the river St. John, will be such a compliance with the terms of the Treaty, that the President will feel himself authorized to establish it as the boundary, without reference to the State of Maine.

The British Government have hitherto insisted upon the highlands of the Treaty being sought for exclusively south of the St. John river, and the United States, according to Mr. McLane's note of the 5th of June, 1833, have, “ with “ equal confidence and pertinacity, insisted upon seeking for them exclusively “ north of that river.” The justice of the pretension of the Americans to do so may be ascertained by a reference to the British statements laid before the arbiter.

The instructions of congress to the American commissioners employed to negotiate at Paris the Treaty of 1783, and which are to be found in the third volume of the “ Secret Journals of Congress ” shows that it was not thought advisable to continue the war in order to obtain the territory bounded by the St. John river. There was no question of a claim to any territory beyond that river, but ever since the report of the commissioners of boundary was made in 1822, the United States have contended that the highlands of the Treaty are only to be found upon an equivocal height of land sixty-six miles north of the St. John, on the boundary of Lower Canada, because a division of rivers is mentioned in the King's proclamation of 1763, and the Quebec Act of 1774, which established that boundary in somewhat similar terms as those to be found in the Treaty of 1783. Though Great Britain offered to allow the north-eastern boundary of the United States to be carried beyond or north of St. John, when she was willing to adopt the line of the King of the Netherlands, the sacrifice of just claims in order to acquiesce in a compromise suggested by the arbiter, and which was rejected by the United States, does not imply any acknowledgment of the right of the United States to a boundary which they never contemplated when the Treaty of 1783 was negotiated.



Though the question of boundary involves the right to the possession of 10,000 square miles of land,—the land in question is covered with a forest of trees. It is not settled, nor can it be settled until by the adjustment of the boundary, the disputed title is adjudged to one of the respective parties. Until that shall take place both Governments are under an implied engagement to preserve the disputed territory in its present state.

Though the communications on the boundary question received from the Government of the United States within the last two years are full of professions of a sincere desire to remove the possibility of the relations between the two Governments being disturbed by leaving the boundary question unsettled, yet, after all that has passed, the Americans persist in restricting any negotiation for the settlement of so important a question, to a renewed effort to trace their north-eastern boundary strictly according to the description of it laid down in the Treaty, which His Majesty's Government have declared to them to be hopeless.

Great Britain is entirely released from any obligations contracted under the seventh article of the Convention of Arbitration, to abide hereafter by the line of boundary proposed by the King of the Netherlands. It has been rejected by the United States, and can no longer be considered as the least measure of concession, which Great Britain will grant for the sake of adjusting this difference between the two nations. The line of the King of the Netherlands carries the boundary of the United States beyond the St. John, and into the neighbourhood of the St. Lawrence, and it has been clearly shewn in the British statements, that the United States cannot have a claim to any territory north of that river.

(Signed) CHAS. R. VAUGHAN.

No. 41.

*Sir C. R. Vaughan to Viscount Palmerston.—(Received January 12, 1835.)*

(Extract.)

*Washington, December 2, 1834.*

ALTHOUGH a regular packet will not leave New York for Liverpool before the 8th instant, I shall send this despatch to New York this day that it may be forwarded to your Lordship by the first vessel which may leave that port for England, in order to transmit to your Lordship a copy of the annual message of the President of the United States, which was this day delivered to Congress.

The notice taken in the message of the relations with Great Britain, consists in stating that the question of the north-eastern boundary is still pending, and that the proposition made in accordance with the resolution of the Senate, for the establishment of a line according to the Treaty of 1783, had not been accepted by the British Government, but a hope is indulged that an adjustment may be effected on the basis of that proposition.

Inclosure in No. 41.

*Extract from the Message of the President of the United States to Congress.*

THE question of the north-eastern boundary is still pending with Great Britain, and the proposition made in accordance with the resolution of the Senate for the establishment of a line according to the Treaty of 1783, has not been accepted by that Government. Believing that every disposition is felt on both sides to adjust this perplexing question to the satisfaction of all the parties interested in it, the hope is yet indulged that it may be effected on the basis of that proposition.

*1st December, 1834.*

No. 42.

*Sir C. R. Vaughan to Viscount Palmerston.—(Received January 14, 1835.)*

My Lord,

*Washington, December 12, 1834.*

I HAVE the honour to acknowledge the receipt, on the 8th December, by way of Liverpool, of your Lordship's despatch of October 30, in answer to the communications made through me, to the Government of the United States, upon the subject of settling the north-eastern boundary of the latter.

I waited upon the Secretary of State of the United States, Mr. Forsyth, and allowed him to read your Lordship's despatch, which I afterwards stated in the form of an official note, and I begged him to remark that it was dated the 30th of October, and that it would have been received previously to the meeting of Congress, had the packet-ship, by which it was sent, had a more favourable passage.

Mr. Forsyth was not prepared, on such an occasion, to give any opinion upon the contents of your Lordship's despatch, but he expressed his regret that the Senate had not acquiesced in the line of boundary proposed by the King of the Netherlands.

I have the honour to be, &c.

Viscount Palmerston, G.C.B.

(Signed)

CHAS. R. VAUGHAN.

&c.      &c.      &c.

No. 43.

*Sir C. R. Vaughan to the Duke of Wellington.—(Received February 6.)*

My Lord Duke,

*Washington, January 12, 1835.*

THE question of boundary between His Majesty's North American Possessions and the United States, having been the subject of an incidental discussion in the House of Representatives, I have the honor to enclose a copy of the report of the debate as given in the "National Intelligencer."\*

Mr. Lincoln of Massachusetts (formerly Governor of that State) offered a Resolution on the 24th December, that the President should be requested to communicate the correspondence between the British Government and the United States, which may have taken place since the latter rejected "the advisory opinion of the King of the Netherlands;" together with any information respecting the exercise of jurisdiction by British authorities over the disputed territory, and any correspondence in his possession between the General Government and the State of Maine, on the subject of boundary.

Mr. Lincoln having been called upon by a representative from Maine, to explain his motives for offering this resolution without any previous consultation with the deputation of Congress from that State, observed that Massachusetts was equally interested with Maine in the settlement of the boundary. When that State was separated from Massachusetts, the latter reserved to itself a moiety of the wild uncultivated lands; and that upwards of five millions of acres were involved in the disputed boundary, to which Great Britain "by a monstrous pretension under the Treaty of 1783," has extended a claim.

Mr. Lincoln then entered into a history of the Treaties and Conventions, which had been concluded for the settlement of the boundary, and he stated that the arbiter, to whose decision the question had been submitted, instead of declaring the true position of the highlands where the due north line from the St. Croix was to terminate, had substituted a proposition of his own for the establishment of a new line of boundary. This result of the arbitration was received both in Maine and Massachusetts "with a burst of surprise, indignation and apprehension," and the legislatures of both States remonstrated against its acceptance. It was rejected by the Senate: and he now wished to know on what grounds

\* See Class B.



Great Britain had not accepted, as stated in the President's message, the offer recommended by the Senate, to open a new negotiation, and what hope remained ' that the British Government would do that hereafter, which for three years ' she has refused to do."

Massachusetts he observed, was pledged to stand by Maine, and no other boundary would ever be accepted by those States, than the one described in the Treaty of 1783. Large tracts of land in the disputed territory had been offered by these States for sale, and townships and roads marked out, all of which were interrupted, and in deference to the General Government, the States had suspended their rights of possession, pending the arbitration; but they would not be content much longer that this question should remain unsettled. He called upon the house to remember that the inhabitants upon the disputed territory were American citizens, who had acquired their title to their possessions under the State Governments, and they had been molested in their persons and their property by the British authorities of New Brunswick. Mr. Lincoln ended with declaring that if the controversy was not soon ended " the States will re-assert their possessive rights, and collisions will ensue."

The resolution was carried on the 27th December by 88 votes to 79; five out of eight representatives of the State of Maine voting against it. They declared, that they considered it to be an officious interference with their duties; that the granting of the correspondence might do harm, " while a hope remains of a " peaceable adjustment;" and they acknowledged that in the State of Maine there was an " apathy" on this subject, which was in the hands of the executive, and they did not desire to interpose obstacles to its progress and termination.

On the 6th instant the President communicated his answer to the House of Representatives, and I have the honor to enclose a copy of it. He acquainted the House, that it would be incompatible with the public interest to lay before them any communication between the two Governments, negotiations for the settlement of the north-eastern boundary being now in progress.

Your Grace will find the speech of Mr. Lincoln full of exaggerated pretensions which never fail to accompany any allusion to the question of boundary.

As no part of the disputed territory has ever been withdrawn from the sovereignty of Great Britain, in consequence of the defective description of the line of boundary in the Treaty of 1783, American citizens cannot have acquired, justly, a title to any lands, from the State of Maine, or of Massachusetts, as asserted by Mr. Lincoln; and there cannot be any pretence for disputing the uninterrupted exercise of jurisdiction over that territory by the British authorities of New Brunswick.

I am sorry to observe in speeches in Congress, and in the newspapers of all parties published at Washington, a disposition to excite resentment, by representing Great Britain as in forcible possession of territory belonging to the United States, and that American citizens have been imprisoned by British authorities, because they obeyed the laws of their own Government.

Mr. Lincoln declared that the States of Maine and Massachusetts will never consent to any line of boundary, but that which is laid down in the Treaty of 1783; and so long as the basis of that Treaty is adhered to rigidly by the Americans, the greatest difficulty will attend every attempt to adjust this perplexing controversy.

Mr. Forsyth, the Secretary of State, was in the Senate in 1832, and voted for the acceptance of the line of boundary suggested by the King of the Netherlands, and I am convinced that he sincerely regrets the rejection of it by the Senate. The decision of the King of the Netherlands, and the willingness of His Majesty's Government to acquiesce in it, seem likely to embarrass any future negotiation. When I urge the necessity of abandoning the terms of the Treaty, and I venture to suggest a conventional line of boundary, I am met with the objection that it is not equal to the terms proposed by the arbiter. Now, the decision of the arbiter was acquiesced in by His Majesty's Government, in fulfilment of the obligations contracted under the VIIth Article of the Convention of Arbitration, and the United States having rejected the decision, Great Britain is entirely released from any reference in a future adjustment to that measure of reconciliation. A sufficient manifestation of an earnest disposition on the part of His Majesty's Government to bring to a satisfactory adjustment the dispute about boundary, has been made by a declaration of

willingness to accept the very disadvantageous line proposed by the King of the Netherlands; by the proposal for acquiescence, previously to future proceedings, in certain preliminary points in which the United States refused to acquiesce; and in the late proposal for agreement on some points, still under the consideration of the Government of the United States, as preliminary to accepting the President's last proposal, and to which I have not yet received an answer.

I trust that the General Government will continue effectually to controul the disposition of the legislatures of Maine and Massachusetts, as manifested by Mr. Lincoln, to attempt to obtain either by force or contrivance, possession of any part of the territory, to which their title is defective, at least so long as the two Governments are engaged in bringing their dispute to an amicable adjustment. I have the honour to be, &c.

(Signed)

CHAS. R. VAUGHAN.

*His Grace the Duke of Wellington, K.G.*

&c.      &c.      &c.

Inclosure in No. 43.

*To the House of Representatives of the United States.*

IN answer to a resolution of the House of Representatives, passed on the 27th ultimo, I transmit a report made to me by the Secretary of State on the subject, and I have to acquaint the House that the negotiation for the settlement of the north-eastern boundary being now in progress, it would, in my opinion, be incompatible with the public interests to lay before the House any communications which have been had between the two Governments since the period alluded to in the resolution.

(Signed)

ANDREW JACKSON.

*Washington, January 6, 1835.*

*Report to the President of the United States.*

*Department of State, Washington, January 5, 1835.*

THE Secretary of State, to whom was referred a resolution of the House of Representatives of the 27th ultimo, requesting the President to lay before the House, if in his opinion it is not incompatible with the public interest, any communications which may have been had between the Government of the United States, and that of Great Britain, since the rejection by the former of the advisory opinion of the King of the Netherlands, in reference to the establishment and final settlement of the north-eastern boundary of the United States, heretofore in controversy between the two Governments, and also requesting the President to communicate any information he may possess of the exercise of practical jurisdiction by the authorities of the British Province of New Brunswick over the disputed territory within the limits of the State of Maine, according to the true line of boundary as claimed by the United States, and especially upon that part of the territory which has been incorporated by the Government of Maine into the town of Madawaska, together with such representations and correspondence (if any) as have been had by the executive of that State with the Government of the United States on the subject, has the honor to report, that the Department has no information which has not already been laid before the House, of the exercise of practical jurisdiction by the authorities of the British Province of New Brunswick over the disputed territory within the limits of the State of Maine, nor any other representation or correspondence had by the executive of that State with the Government of the United States on that subject. Representations were made to this Department in the latter part of the year 1833, by the British Minister at Washington, on the part of the authorities of New Brunswick, complaining of infractions of the understanding subsisting between the two Governments in regard to the disputed territory. These complaints, however, on being referred to the Governors of Maine and Massachusetts for explanation, were believed to be without just grounds. There was no complaint on the part of Maine, and the correspondence which took place on the occasion, is not supposed to be within the scope of the resolution of the House.



As the negotiation between the United States and Great Britain, which was commenced in accordance with a resolution of the Senate after the rejection of the advisory opinion of the King of the Netherlands, for the establishment of the north-eastern boundary, is now in progress, it is submitted to the President whether it would be compatible with the public interest to lay before the House any communications which have passed between the two Governments on the subject.

All which is respectfully submitted.

(Signed)

JOHN FORSYTH.

No. 44.

*Sir C. R. Vaughan to the Duke of Wellington.—(Received May 20.)*

(Extract.)

*Washington, April 20, 1835.*

I HAVE been for some time in daily expectation of receiving from Mr. Forsyth, an answer to my note, presented at the beginning of the month of December last, calling upon the Government of the United States as a necessary preliminary to further proceedings respecting the proposal of the President for a new survey, that they should acquiesce in the opinion of the King of the Netherlands, that the Restigouche River, which empties itself into the Bay of Chaleurs, and the River St. John, which empties itself into the Bay of Fundy, ought not to be considered as rivers designated in the Treaty of 1783, as falling into the Atlantic Ocean.

I am given to understand by Mr. Forsyth, that the Government of the United States will not acquiesce in that opinion, though I have endeavoured to impress upon him that the proposition of the President cannot be adopted by His Majesty's Government without that point, as well as the principles upon which the new survey is to be conducted, being settled in a special Convention. Great Britain had justly required acquiescence in several points which the arbiter had decided in the spirit of the agreement to a reference. It remains to be seen on what grounds Mr. Forsyth will place the refusal of the United States in his note, which I trust that I shall receive before the next packet will sail from New York.

It is to be regretted, upon a review of the proceedings to settle the boundary, that every effort hitherto made to bring the question to a conclusion, has had the effect of throwing fresh difficulties in the way of a final settlement. I allude to the result of the commissions of 1794 in 1798, the result of the commissions under the Treaty of Ghent, concluded in 1814, and the result of the reference to arbitration in 1831.

The declaration of 1798 fixed the departure of the line, without any consideration of the country through which it was to be drawn, due north, and without ascertaining the existence of the highlands on which it was to terminate. The consequence has been, that afterwards in 1802 and 1803, we find Mr. Madison and Mr. Jefferson asserting that they have no definite existence; and the American commissioners of 1814 showed that, by our having consented to adopt the easternmost branch of that river which they chose to fix upon instead of the westernmost, as the St. Croix of the Treaty, a line drawn due north would not intersect the highlands at Mars Hill, but pass to the eastward of it, and before it could reach any land marked by a division of rivers, they carried it beyond the river St. John, and to the north of it sixty-six miles.

Many rivers in British North America, when they were first discovered, were christened St. Croix, by fixing upon a conspicuous point on the banks the sign of a cross. It is difficult to believe that the St. Croix agreed upon in 1798, was the St. Croix river of the Treaty of 1783; the latter was named because such a river was thought to be the eastern boundary of the *colony of Massachusetts*, not the eastern boundary of the "province of Massachusetts Bay in New England," incorporated by the charter of William and Mary in 1691. It was decided in 1750, according to the memoirs of the British and French commissioners, published in 1755, that the Penobscot river was the boundary of Nova Scotia, or Acadie, for the country frequently passed under both names. It was afterwards asserted that the river Kennebec was the western boundary. Both those rivers have their sources in highlands, which divide rivers falling into the

Atlantic, from rivers which empty themselves into the St. Lawrence. Previously to 1783, highlands of that description had been found by General Arnold, on his expedition to Quebec in 1775. It is stated in the published account of that expedition, that he passed up the Kennebec to its source, and then crossed "a ridge" of land which separates the waters falling into the St. Lawrence from those "which run into the sea." It is fair to conclude that this was the position of the highlands contemplated by the negotiators at Paris, particularly when we recollect that up to 1781 or 1782, the Americans placed the north-west angle of Nova Scotia thereabouts, at the sources of the St. John.

No. 45.

*Sir C. R. Vaughan to the Duke of Wellington.—(Received May 30.)*

My Lord Duke,

*Washington, May 4, 1835.*

I HAVE the honor to transmit to your Grace a copy of a note from the Secretary of State of the United States, containing an answer to the observations made in the month of December last, according to instructions received from His Majesty's Government, respecting the question of boundary.

Your Grace will find in the note a recapitulation of the proceedings of the respective parties in substantiating their claims, an examination of the terms of the award, and finally a declaration that the proposal of His Majesty's Government to consider the rivers Restigouche and St. John, as rivers not falling directly into the Atlantic, as inadmissible.

The Secretary of State positively denies, that in the award of the King of the Netherlands, the view taken by His Majesty's Government of the point in dispute respecting those rivers, is sustained. The suggestion which I made in a note to Mr. McLane in 1833, has been favourably noticed by the President, and he has authorized the Secretary of State to declare that had he unlimited control over the question, he would have attended to it in the same spirit in which it was offered. As the President cannot make any other proposition than the one for a new survey, a wish is expressed that some proposal should be made by His Majesty's Government in a form sufficiently definite to enable the President to take the sense of the State of Maine upon it, and the President has directed the Secretary of State to confer with me.

The answer which I have thought it my duty to return to the note contains a refutation of the assertion of Mr. Forsyth, that His Majesty's Government had misinterpreted the terms of the award of the King of the Netherlands. I have acknowledged the desire (which I am convinced is sincere) of the President to do everything within his constitutional competency to settle the boundary, and I have stated my readiness to confer with the Secretary of State, whenever it may be convenient to receive me. As the constitutional difficulties brought forward by Maine are considered as the principal obstacle in the way of a final adjustment, I have, in my note, a copy of which I have the honor to enclose, pointed out that their removal exclusively belongs to the executive branch of the American Government.

It unfortunately happens, that the Secretary of State, leaves Washington to-day, and will be absent for some time. I have, only therefore, been able to see him once. I begged him to inform me, what was the nature of the proposition which it was wished that His Majesty's Government would make in a definite form.

The answer leads me to suppose that it is wished that His Majesty's Government could be persuaded to grant such an equivalent to Maine, for the territory (that the State has no title to) between the American north line of the St. John, and the river St. Francis, which prevented the General Government from accepting the line of the arbiter. Maine attempted in 1832, when the President was disposed to acquiesce in the award, to negotiate with the General Government for such an equivalent as the price to be paid to that State, for waving the constitutional difficulties. I informed the Secretary of State that if such was the object, I could not believe it possible for His Majesty's Government to consent to purchase the acceptance of the State of Maine, of a line of boundary, which entailed upon Great Britain so great a sacrifice of her just claims, and to which His Majesty's Government never could have consented, but in fulfilment of the obligation contracted under the VIIth Article of the Convention of Arbitration.



Mr. Forsyth insisted that Maine could not be expected to accept any line of boundary, which should not be better than that which she rejected under the award; and I protested, as the award had been rejected, against that concession being ever considered as the least sacrifice Great Britain was to make, in order to conciliate Maine.

I have seen a disposition in former despatches from His Majesty's Government to consent still to acquiesce in the line of the King of the Netherlands, which was so manifestly advantageous to the United States, and I am surprised that a proposal has not been made in the Senate, by this time, to revoke their decision.

I have the honour to be, &c.

(Signed)

CHAS. R. VAUGHAN.

*His Grace the Duke of Wellington, K.G.*

&c.      &c.      &c.

Inclosure 1 in No. 45.

*The Hon. John Forsyth to Sir C. R. Vaughan.*

*Department of State, Washington, April 28, 1835.*

THE observations of the 8th December, submitted under instructions from the British Government, by Sir Charles R. Vaughan, &c. &c., on the proposition made by the United States, for the settlement of the disputed boundary, between the United States and His Britannic Majesty's North American Possessions, have been laid before the President, and by his direction the undersigned Secretary of State of the United States, has now the honor to reply.

The President reciprocates, most fully, the spirit of cordial friendship towards the Government of the United States and himself, by which Sir Charles R. Vaughan is pleased to assure the Undersigned, that His Majesty's Government is actuated, and sees, with satisfaction, the renewed assurances of its desire to arrive at a settlement of the question of boundary, by any means, not inconsistent with the honor and essential interests of Great Britain. The Undersigned is instructed to repeat, on the part of the President, the expression of his determination to effectuate this object, by all the means within his constitutional competency, which are reconcileable to his views, of what are justly due to the character and interests of the United States.

The President has derived a satisfaction proportionate to his deep sense of its importance, from the success which has attended the past efforts of the two Governments, in removing existing, and preventing the recurrence of new, obstacles, to the most liberal and friendly intercourse between them; and it would be a source of unalloyed pleasure to be able, during the short period which he may remain at the head of the Government, to bring to a conclusion, satisfactory to both parties, a controversy which has been justly described as the only matter of serious difficulty, which is still in contestation between Great Britain and the United States.

The Convention authorizing and regulating the reference of the points of difference to a friendly Sovereign, and the selection of that Sovereign, had been made before the President entered on the duties of his office; but no time was lost in adopting and facilitating all the measures in which his agency could be properly employed to bring that reference to a speedy and satisfactory result. If the distinguished arbiter agreed upon, had found himself able to come to a decision upon the subject, satisfactory to his own judgment, the Government of the United States could not have hesitated, for a moment, whatever might have been its opinion of the justice of such decision, to have united with His Majesty's Government in carrying it, fully and immediately, into effect. Unfortunately this was beyond his power, and the respected arbiter was too sensible of what was due, as well to his own high character as to the parties, to profess to have done, what he found himself unable to accomplish. Believing sincerely, but, as the President cannot but think, erroneously, that he could not discharge the functions of arbitrator, he, from unquestioned motives of friendly regard to the parties respectively, acted in the character of mediator. That the acts or suggestions of the selected Sovereign in the character of mediator, were not binding upon the parties, further than they should, subsequently, respectively agree to adopt them, was a point too clear to furnish ground of dispute between the two Governments, nor was it less

clearly the duty of the President to submit the whole matter as presented by the arbiter, to the Senate of the United States, for its constitutional advice and co-operation. The recommendations of the arbitrator were rejected by a large majority of that body, and a resolution passed advising the President "to open a new negotiation with His Britannic Majesty's Government for the ascertainment of the boundary between the possessions of the United States, and those of the King of Great Britain on the north-eastern frontier of the United States, according to the Treaty of Peace of 1783." The parties were thus placed, in respect to the disputed boundary, in the situation respectively occupied by them before the conclusion of the Convention of the 24th December, 1814, in virtue of which, the various measures that had been successively adopted to bring this controversy to a satisfactory termination were commenced, leaving the President with no other rightful authority for its adjustment than that of opening anew negotiations for the settlement of the question according to the terms and upon the principles of the Treaty of 1783.

The Undersigned is specially instructed to assure Sir Charles R. Vaughan, that the President duly appreciates the prompt suggestion made by him, as His Britannic Majesty's Minister, that a new negotiation should be opened, for the establishment of a conventional boundary, between the two countries, which, while it respected, as far as practicable, their existing pretensions, should secure the best interests of each. Possessing full power over the subject, His Britannic Majesty's Government might, very properly, consult what was due to its uniform professions; and Sir Charles R. Vaughan may assure his Government, that if the President had like powers, he would have met the suggestion in as favorable a spirit as that by which it was prompted. His limited power has been heretofore stated, and the reasons why, under the peculiar structure of our political system, the Federal Government cannot alienate any portion of the territory of a State, without its consent, have been given at large to Sir Charles R. Vaughan, as well as the reasons why, under existing circumstances, and while a hope remains of arriving at a settlement of the question, as originally presented under the Treaty, there is but little prospect that the State of Maine would agree to the establishment of a new line. Thus restricted in the exercise of his discretion, and embarrassed by the difficulties, arising from the failure of anterior efforts, the President has nevertheless given his constant attention to the subject, in the hope of still being able to find some mode by which the protracted controversy may be terminated satisfactorily.

The submission of the whole subject, or any part of it, to a new arbitrator, promised too little to attract the favorable consideration of either party. The desired adjustment was, therefore, to be sought for, in the application, to the controverted question of some new principle, not heretofore acted upon; and the consequent prosecution of investigations hitherto unattempted, because regarded as irrelevant and inapplicable. He thought, and, with respectful deference, to the apprehension of His Majesty's Government, he still thinks, that with the hearty co-operation on the part of His Majesty's Government, the object, which is so desirable to all parties, a fair and equitable settlement of the boundary in dispute, according to the Treaty of 1783, by a faithful prosecution of the plan, which has been submitted, by his directions, to the consideration of His Majesty's Government, is attainable.

By the Treaty of 1783, the boundary between the dominions of the two Governments was to be a line drawn from the source of the St. Croix directly north to the highlands, which divide the rivers which fall into the Atlantic Ocean from those which fall into the river St. Lawrence; the point at which the due north line was to cut the highlands was also designated as the north-west angle of Nova Scotia, thence along the said highlands to the north-westernmost head of the Connecticut river, &c. The ascertainment of the true north-west angle of Nova Scotia, or the designation of the highlands referred to, has been the principal difficulty by which the settlement of the boundary has been so long retarded; and it was the supposed impracticability of satisfactorily accomplishing that ascertainment or designation which prevented the adjustment by the arbitrator. The United States have always contended, that the point to which they have uniformly claimed, is upon certain highlands north of the river St. John, which answers, in every respect, the description given in the Treaty, and is the true north-west angle of Nova Scotia; a claim, which is not intended to be abandoned or weakened by any thing the President has authorized to



be proposed, or said upon the subject. If the highlands now referred to, do, in truth, answer the description, no doubt could be reasonably entertained of the justice of our claim, as there would be a perfect concurrence in the course prescribed, and the natural object designated by the Treaty; but on the part of Great Britain, it has been strenuously contended, that no highlands, answering the description in the Treaty, could be found northward of the river St. John, upon a line running directly north; and it has therefore been insisted that the due north line shall be deemed to terminate to the southward of that river, and at a place called Mars Hill. The President is advised, that it is a rule in practical surveying, which prevailed in this country before the revolution, and has since been, and still is, considered obligatory, that when there is found in the location of the premises described in a deed or any other instrument, a disagreement in the course of a given line, and the bearing of a natural object called for, as its termination, the given course must be made to yield to the given object, and the line closed at the object, in a direction corresponding, as nearly as practicable, to the course prescribed; upon the principle, that the natural object furnishes evidence of the true intention of the parties, which may be relied upon, with more safety than the course, errors in which constantly occur; from the imperfection of the instruments used, or the want of knowledge of those, in whose hands they may have been placed. He has thought this rule might be rightfully and properly applied to the matter now in controversy, and is willing to agree, that if, upon a thorough examination, it shall appear to those appointed by the parties, to make it, that His Majesty's Government is correct in its assumption, that the highlands hitherto claimed by the United States, as those designated by the Treaty, do not answer that description, but that those highlands are to be found, to the west of the due north line, that the boundary line should be closed according to the established rule in practical surveying. Whether there are highlands to be found in a north-westerly course, from the source of the St. Croix, answering better to the description given in the Treaty of 1783, than those heretofore claimed, by the United States, and so clearly identified as to remove all reasonable doubt, remains to be ascertained. No inquiry into this fact, with a view to apply it to the respective and conflicting pretensions of the parties, has hitherto been made. It was under these circumstances, and with such impressions, that Mr. Livingston was authorised to propose to Sir Charles R. Vaughan, for the consideration of his Government, that a new commission should be appointed, consisting of an equal number of commissioners, with an umpire, selected by some friendly Sovereign, from among the most skilful men in Europe, to decide on all points, in which they might disagree; or a commission entirely composed of scientific Europeans, selected by a friendly Sovereign, to be attended in the survey and examination of the country, by agents appointed by the parties. The adoption of this course would, it was urged, have the benefit of strict impartiality in the commissioners' local knowledge and high professional skill, which though, heretofore, separately called into action, have never before been combined for the solution of the question.

In consequence of a wish expressed by Sir Charles R. Vaughan, to be more fully advised of the views of the President, upon the subject of this proposition, he was furnished with a diagram, by which the manner, in which it was intended the line should be run, in the event of highlands being discovered better answering the description of the Treaty than those claimed by the United States, was pointed out distinctly; while to relieve His Majesty's Government from all apprehension of a more extended claim of territory on our part, Mr. Livingston was authorized to disclaim, and did disclaim, all pretensions on the part of the United States, to the territory east of the line, which had been previously run directly north from the source of the St. Croix. Actuated by that sincere desire to effect, in some proper way, the settlement of the boundary in question, by which he had been governed, Mr. McLane was, subsequently, authorized by the President, to propose to Sir C. R. Vaughan, for the consideration of His Majesty's Government, that, if the proposition made by Mr. Livingston, for the adjustment of one of the three points of difference was accepted, the United States would, on their part, consent to adopt the place designated by Great Britain, as the north-westernmost head of the Connecticut river; and would also, as to the remaining point, the line from the Connecticut river to the

St. Lawrence, adopt that which was run by Valentine and Collins, which, it was believed, would not be unacceptable to Great Britain.

The Undersigned does not learn from the communication of Sir C. R. Vaughan, that the justice and reasonableness of the rule of practical surveying, offered, as the basis of Mr. Livingston's proposition, is now disputed, although not considered by His Majesty's Government so generally established and recognized, as was supposed by the predecessor of the Undersigned.

If it should become material to do so, which is not from the present aspect of the question to be anticipated, the Undersigned would find no difficulty either in fortifying the ground occupied by his Government in this regard, or in satisfying Sir Charles R. Vaughan that the instance of a supposed departure from the rule brought into notice by His Britannic Majesty's Government, is not at variance with the assertion of Mr. Livingston, repeated by Mr. McLane. For the present, therefore, he limits himself to this single remark—that the line of demarcation between the United States and the possessions of Great Britain, referred to by Sir Charles R. Vaughan, was not established as the true boundary prescribed by the Treaty of 1783, but was a conventional substitute for it of a parallel of latitude, the result of a new negotiation, controlled by other considerations than those which were to be drawn from that instrument only. Under these circumstances it is, with unfeigned regret, the President learns the decision of His Majesty's Government not to agree to the proposition, made in that spirit of accommodation by which the United States have, throughout, been influenced, without a precedent compliance, on their part, with inadmissible conditions. These conditions were first brought to the consideration of the Government of the United States by Sir C. R. Vaughan's letter to Mr. McLane of the 10th February, 1834, in which it was stated that as the arbiter in the course of his reasoning on the main point, had expressed his opinion upon several subordinate questions having a direct bearing thereon, these opinions regarded by His Majesty's Government as decisions, ought to be acquiesced in by the parties, before any steps are taken to carry the President's proposition into effect. These opinions, as stated by Sir C. R. Vaughan, were found to be seven in number, embracing, substantially, every suggestion of the difficulties the arbitrator had found and expressed in yielding his assent to the American location of the disputed line. Sir C. R. Vaughan has already been put in possession of the President's views upon the proposal of His Majesty's Government. The President sincerely believes that the new process of investigation proposed by him, might under the control of the principle of practical surveying developed, lead to a settlement of this agitating question, which, as it would be legally and fairly made according to a long established and well known rule, prevalent equally among the citizens of the United States and the subjects of His Britannic Majesty, ought to be, and he confidently trusted would be, satisfactory to all parties. Under this conviction, and being moreover most solicitous that no means by which so desirable an object might be facilitated should be left untried, he consulted alike his inclination and his duty, by making the proposal in question. If His Majesty's Government are so firm in the belief that a satisfactory settlement of the disputed line of boundary according to the Treaty of 1783, is so clearly impracticable as to render all future efforts to that end unavailing, and had, on that account, declined the offer made by the President, he might not have had cause to complain. But it appeared to him to be exceedingly unreasonable that he should be asked to adopt, in the prosecution of a proposed plan for the ascertainment of the true boundary as prescribed by the Treaty, those suggestions and opinions of the arbiter by which alone he had brought his mind to the extraordinary conclusion that the boundaries prescribed could not be located; more especially so when the President sincerely dissented from the correctness of those opinions, and when in addition thereto the admission of some of them might, as understood by and following the previous pretensions of His Majesty's Government, establish, as the true boundary of the Treaty of 1783, the line claimed by Great Britain, yet declared by the arbiter himself, the adoption of whose opinions was thus asked, to be towards the United States, unjust and inequitable, and not comporting with the obligations and intentions of the parties to that instrument. Sir Chas. R. Vaughan was informed by Mr. McLane, of the reasons upon which this opinion of the President was founded, and His Majesty's Government invoked, not to persist in requiring conditions, to which the President could not assent.



The President is pleased to find, that the frank and conciliatory spirit, in which this was done, has been duly appreciated by His Majesty's Government, and sincerely regrets, that they were not also found to possess sufficient force and justice to induce it to withdraw entirely the objectionable conditions. Such he is concerned to find, has not been the case ; but that, on the contrary, while it has pleased His Majesty's Government to waive, for the present, six of the seven opinions referred to, the remaining one, among the most important of them all, is still insisted upon. The President does not think it necessary to direct any thing to be added to the reasons, which have been urged by Mr. McLane, in support of the objections of a general character to the course which His Majesty's Government think it justifiable to pursue in this respect, and the Undersigned, therefore, only requests a careful reconsideration of them. In respect to the specific condition, still insisted upon, viz., that the St. John and Restigouche should be treated by the proposed commission as not being Atlantic rivers, according to the meaning of those terms in the Treaty, the Undersigned submits a few brief remarks. Whether these rivers were or were not to be so regarded, was a point most laboriously argued between the two Governments, but without success, as far as it respected the opinions of either. Sir Chas. R. Vaughan, in his communication, to which this is a reply, has reasserted some of the positions of fact, and reinforced some of the reasons then asserted and urged by his Government ; but the Undersigned is not apprized of any thing new, either of fact or argument, that has now, for the first time, been brought forward. The inutility of renewing the discussion on this point is so obvious, that the Undersigned deems it necessary merely to suggest, that, however convincing and satisfactory the argument of the British Government to itself, it has been ever considered by the United States as altogether inconclusive ; and the contrary position as most fully sustained by the arguments and facts heretofore adduced on their part in the discussion between the two Governments of the subject. That part of the communication of Sir C. R. Vaughan, however, which seeks to strengthen the ground heretofore taken on this point by his Government, by calling to its aid the supposed confirmation by the arbiter, requires a more particular notice. In Sir C. R. Vaughan's note, of the 10th February, 1834, the arbiter is represented, to have declared " that rivers falling into the Bay of Chaleurs and the Bay of Fundy, cannot be considered, according to the meaning of the Treaty, as rivers falling into the Atlantic : and especially that the rivers St. John and Restigouche cannot be looked upon as answering the latter description ;" and in Sir Charles R. Vaughan's last communication, the fact of such an opinion having been declared, is taken for granted. Without stopping to question the effect of such a declaration upon the rights of the parties, as it has been rendered unnecessary by what has heretofore been said, the Undersigned feels himself fully warranted in questioning that any such opinion has been given by the respected arbiter.

In regard to the first and most material point in controversy,—where is the spot designated in the Treaty as the north-west angle of Nova Scotia, and where the highlands dividing the rivers that empty themselves into the river St. Lawrence, from those falling into the Atlantic Ocean, along which highlands is to be drawn the line of boundary from that angle to the north-westernmost head of the Connecticutriver?—the arbiter considered " that the nature of the difference, " and the vague and not sufficiently determinate stipulations of the Treaty of " 1783, do not permit to adjudge either of the lines to one of the said parties " without wounding the principles of law and equity, with regard to the other." It is indeed true, that in support of this view of the subject it was observed by the arbitrator, " that if in contradistinction to the rivers that empty themselves " into the St. Lawrence it had been proper, agreeably to the language ordinarily " used in geography, to comprehend the rivers falling into the bays of Fundy " and Des Chaleurs, with those emptying themselves directly into the At- " lantic Ocean, in the generical denomination of rivers falling into the Atlantic " Ocean, it would be hazardous to include into the species belonging to that " class, the rivers St. John and Restigouche, which the line claimed at the " north of the river St. John, divides immediately from rivers emptying them- " selves into the river St. Lawrence, not with other rivers falling into the " Atlantic Ocean, but alone ; and thus to apply in interpreting the delineation " established by the Treaty, where each word must have a meaning to two exclu- " sively special cases, and where no mention is made of the genus (genre), a " generical expression which would ascribe to them a broader meaning," &c.

It cannot but appear, upon further reflection to Sir Charles R. Vaughan, that this declaration that the rivers St. John and Restigouche could not be *alone* taken into view without hazard in determining the disputed boundary, is not the expression of an opinion that they should be altogether excluded in determining that question, or in other words, that the opinion of the Arbitrator is, that the St. John and Restigouche cannot be looked upon as rivers emptying into the Atlantic.

The Undersigned has examined the award in vain to discover any other declaration of the Arbiter, from which support could be derived for the assumption under consideration, and he finds nothing to sustain it in the general conclusions, which the Arbiter has allowed himself to reach. On the contrary, he insists that, independently of the strong inference to be drawn from the whole tenor of the Award, that it was not his intention to express the opinion imputed to him. The Arbitrator has in terms protected himself, as well as the United States against such an assumption by the following explicit declaration, almost immediately succeeding that which can only be relied on to support the opposite conclusion: "*And on the other hand, that it cannot be sufficiently explained how, if the high contracting parties intended in 1783 to establish the boundary at the south of the river St. John, that river to which the territory in dispute is, in a great measure, indebted for its distinctive character, has been neutralized and set aside.*"

Entertaining these views, the President has made it the duty of the Undersigned to apprise Sir C. R. Vaughan, that he cannot agree to clog the submission with the condition proposed by His Majesty's Government. A thorough and most careful re-examination of the subject, in all its relations, has but served to confirm his previous impressions, that a just regard for the rights of the parties, and a proper consideration of his own duty, require that the new submission, if made, should be made without restriction or qualification upon the discretion of the commissioners, other than such as result from established facts, and the just interpretation of the Treaty of 1783, and such as have been heretofore, and are hereby now again tendered by him to His Britannic Majesty's Government. He despairs of obtaining a better constituted tribunal than the one proposed. He sees nothing unfit or improper in submitting the question as to the character in which the St. John and Restigouche are to be regarded, to the decision of impartial commissioners. The parties have heretofore thought it proper so to submit it, and it by no means follows, that because commissioners chosen by the parties themselves without an umpire, have not been able to come to an agreement in respect to it, that the same unfortunate result would attend efforts of commissioners differently selected.

The President is not, at present, advised of any other proposition that it is in his power to make, in furtherance of that object, which is alone within his constitutional competency, the settlement of the boundary, according to the Treaty of 1783. The Undersigned is, however, instructed to say, that he will be most happy to receive such proposition as His Britannic Majesty's Government may think it expedient to make, and will not fail to consider it in a just and conciliatory spirit. He has also been authorized by the President to confer with Sir Charles R. Vaughan, whenever it may suit his convenience, and comport with the instructions of his Government, as well in respect to any suggestion which he may have to make upon the subject of the Treaty Boundary, as to any proposition His Majesty's Government may be disposed to offer for a conventional substitute for it. The Undersigned deems it, however, required by frankness, to say to Sir Charles R. Vaughan, that as the President does not possess the power to establish a conventional boundary without the consent of the State of Maine, it will be greatly conducive to the preservation of that harmony between the two countries, both are so desirous to cherish, and which is so liable to be impaired by unavailing negotiation, that whatever proposition His Majesty's Government may feel disposed to make, should, before its submission to the authorities of that State, receive a form sufficiently definite to enable the President to take their sense upon it without embarrassment, and with the least possible delay.

The Undersigned avails himself, &c.

*Rt. Hon. Sir C. R. Vaughan,*  
 &c.      &c.      &c.

(Signed)

JOHN FORSYTH.



Inclosure 2 in No. 45.

*Sir C. R. Vaughan to the Hon. John Forsyth.*

*Washington, May 4, 1835.*

THE Undersigned, His Britannic Majesty's Envoy Extraordinary and Minister Plenipotentiary, has the honor to acknowledge the receipt of the note of the Secretary of State of the United States, in answer to the observations which he presented, according to the instructions from His Majesty's Government, respecting the proposal of the President of the United States, to endeavour to settle the boundary by establishing a new commission of survey.

It is with great regret that the Undersigned finds, that a condition which His Majesty's Government stated to be an essential preliminary, to the adoption of the proposal of the President, is declared to be inadmissible by the Government of the United States.

The Secretary of State, in his note, not only questions, but positively denies, that the view taken by His Majesty's Government of that point in the dispute, which respects the rivers which are to be considered as falling directly into the Atlantic, has received any confirmation, as alleged in the note of the Undersigned, from the terms of the award of the arbiter.

Without attempting to give a clear exposition of the meaning of that passage in the award, where it is stated, that it would be hazardous to comprehend the rivers Restigouche and St. John, in those which fall directly into the Atlantic Ocean; the very passage cited by Mr. Forsyth, in his note, forms a part of the reasoning of the arbiter, founded on the words of the Treaty, against admitting the American Line, north of the St. John, because that river and the Restigouche, which that north line separates from rivers, emptying themselves into the St. Lawrence, are not to be considered as the rivers of the Treaty which fall into the Atlantic Ocean.

The Undersigned therefore appeals, with confidence to the tenor of the language of the award, to justify the inference which has been drawn from it by His Majesty's Government.

The acquiescence of the Government of the United States, in that which was understood to be the opinion of the arbiter, was invited by His Majesty's Government, because the new commission could not enter upon their survey of the disputed Territory in search of highlands to be distinguished by the separation of rivers, without a previous agreement between the respective Governments, what rivers ought to be considered as rivers falling into the Atlantic.

Mr. Forsyth observes, that the new submission should be left to the discretion of the commissioners without restriction, but it appears to the Undersigned, that if the character in which the rivers Restigouche and St. John are to be regarded, is a question to be submitted to them, the proposal of the President would assume the character of a renewed arbitration, which, as Mr. Forsyth observes, "promises too little to attract the favourable consideration of either party."

While His Majesty's Government has been disposed to maintain the validity of the decisions of the arbiter on subordinate points, their mention has not been confined exclusively to those decided in favour of British claims. An attentive consideration of the whole of the decisions in the award will shew that they are nearly balanced in favour of either party, while the general result of the arbitration to which His Majesty's Government expressed a willingness to adhere, was so manifestly in favour of the United States, that to them were assigned three-fifths of the territory in dispute, and Rouse's Point, in Lake Champlain, to which the American Government had voluntarily resigned all claim.

The Undersigned begs leave to offer some explanation of the suggestion which he ventured to make without instructions from his Government, which is alluded in the note of the Secretary of State.

In a note addressed to Mr. McLane, and dated the 31st May, 1833, the Undersigned being convinced of the insuperable difficulties, in the way of tracing the line of the Treaty, notwithstanding the proposal of the President to deviate from the due north line from the St. Croix river in search of the highlands, ventured to observe, that the question of boundary could only be set at rest by the abandonment of the defective description of it in the Treaty, and by the Governments mutually agreeing upon a conventional line more convenient

to both parties than either of the lines insisted upon by the commissioners under the Treaty of Ghent, or the line recommended by the King of the Netherlands. The answer to that suggestion, in a note dated the 5th of June, 1833, from Mr. McLane was, that it would rather add to than obviate the constitutional difficulties already insuperable.

The Undersigned acknowledges, with great satisfaction, the assurance which he has now received, that if the President possessed the same full power as His Majesty's Government over the question of boundary, so long in discussion, he would have met the suggestion in as favourable a spirit as that by which it was prompted. His Majesty's Government must acknowledge, and will duly appreciate the friendly spirit and the unwearied endeavours of the President to remove the only difficulty which remains in the relations with the United States; and it is to be lamented, that the two Governments cannot coincide in the opinion, that the object is attainable by the proposal of the President, as it is all that it is in his power to offer, in alleviation of the hopeless task of tracing the line of the Treaty, to which the Senate has advised, that any future negotiation with the British Government for settling the boundary, should be restricted.

The Undersigned will transmit without delay to His Majesty's Government a copy of the note, which he has received from the Secretary of State of the United States, and he is ready to meet the wishes of the President, and to confer with the Secretary of State, whenever it may be convenient to receive him.

As to any proposition, which it may be the wish of the Government of the United States to receive from His Majesty's Government respecting a conventional substitute for the line of the Treaty of 1783, the constant allusion in the correspondence, which has taken place to constitutional difficulties in the way of the executive treating for any other line, than one conformable with that of the Treaty, until the consent of the State of Maine is obtained, seems to point out the necessity, in the first instance, of attaining that object, which must be undertaken exclusively by the General Government of the United States. As to the other difficulties which present themselves to the Undersigned, they will more properly form the subject of a conference with the Secretary of State.

The Undersigned &c.

*The Hon. John Forsyth.*  
 &c.      &c.      &c.

(Signed)

CHAS. R. VAUGHAN.

No. 46.

*Viscount Palmerston to Charles Bankhead, Esq.*

Sir,

*Foreign Office, October 30, 1835.*

HIS Majesty's Government have taken into their most deliberate consideration the note presented by Mr. Forsyth to Sir Charles Vaughan on the 28th April last, upon the boundary question, and I have now to give you instructions for a reply to the Government of the United States.

His Majesty's Government have observed with the greatest pleasure, during the whole of the communications which of late have taken place on this question, the friendly and conciliatory spirit which has been manifested by the President of the United States; and they are themselves equally animated by the sincerest desire to settle this matter by an arrangement just and honorable for both parties.

His Majesty's Government are fully convinced that if the repeated attempts which they have made to come to an understanding on this subject with the Government of the United States, have not been attended with success, the failure of their endeavours has been owing to no want of a corresponding disposition on the part of the President, but has arisen from difficulties on his side, over which he has had no control.

His Majesty's Government, however, do not the less lament that the advances which they have made have been fruitless; but with their regret is mingled the satisfactory consciousness which they feel, that in making those advances, they have gone to the utmost extent to which a due regard for the honour and interests of the British Crown could permit them to go.

The time seems, however, now to be arrived, when it has become expedient to take a review of the position in which the discussion between the two Govern-



ments stands ; and by separating those plans of arrangement which have failed, from those which are yet susceptible of being adopted, to disencumber our future communications of all useless matter, and to confine them to such suggestions only as may by possibility lead to a practical result.

And first with regard to the award of the King of the Netherlands, the two Governments had agreed to refer to that Sovereign as arbiter, the decision of the Three Points of difference ; and they pledged themselves before hand to abide by the decision which he might pronounce.

The King of the Netherlands decided absolutely two points out of the three ; and with respect to the third, while he declared that an absolute decision of that point was impossible, he recommended to the two parties a compromise.

His Majesty's Government on receiving the award of the King of the Netherlands, announced, without any hesitation, their willingness to abide by that award, if it should be equally accepted by the United States.

His Majesty's Government were of course fully aware that this award was not an absolute decision on all the three points submitted to reference ; they were also quite sensible that in some important matters this award was less favourable to Great Britain than it was to the United States ; but the wish of His Majesty's Government for a prompt and amicable settlement of this question, outweighed the objections to which the award was liable, and for the sake of obtaining such a settlement, they determined to accept the award.

But their expectations were not realized. The Senate of the United States refused in July 1832 to subscribe to the award ; and during the three years which have elapsed since that time, although the British Government has more than once declared that it was still ready to abide by its offer to accept the award, the Government of the United States has as often replied that on its part that award could not be agreed to.

The British Government must now in its turn declare that it considers itself by this refusal of the United States, fully and entirely released from the conditional offer which it had made, and you are instructed distinctly to announce to the President, that the British Government withdraws its consent to accept the territorial compromise recommended by the King of the Netherlands.

The award being thus disposed of, the next matter to be considered is, the proposal of the President of the United States, that a new survey of the disputed territory should be made by commissioners, to be named in one of two ways suggested by him, and that these commissioners should endeavour, by exploring the country, to trace a boundary line that should be conformable with the Treaty of 1783.

With this view the President suggests that, whereas the landmark to be looked for consists of certain highlands described in the Treaty, the commissioners should be authorized to search for those highlands in a north westerly direction from the head of the St. Croix river, if no such highlands should be found in the due north line from that point.

To this His Majesty's Government replied, that before an exploring commission could be sent out in search of these highlands, it would be necessary that the two Governments, and by consequence their respective commissioners, should be agreed as to the definition by which any given hills were to be identified as being the highlands intended by the Treaty. That, according to the words of the Treaty these highlands were to be known by the circumstance of their dividing rivers flowing into the St. Lawrence from rivers flowing into the Atlantic ; that with regard to rivers flowing into the St. Lawrence, no doubt could possibly exist as to which those rivers were ; but that with regard to rivers falling into the Atlantic Ocean, a question has been mooted as to them, and this question is, whether the bay of Fundy should, for the purposes of the Treaty, be considered as part of the Atlantic, and whether rivers flowing into that bay should be deemed to be Atlantic rivers.

His Majesty's Government stated the reasons which in their opinion render it clear and certain that the Treaty of 1783 establishes a distinction between the Bay of Fundy and the Atlantic Ocean, and therefore excludes from the class of Atlantic rivers, rivers which discharge themselves into that bay.

His Majesty's Government farther quoted in confirmation of this their opinion, the decision which, as they contend, the King of the Netherlands

incidentally gave upon this question in the course of his award; and they expressed their hope that the Government of the United States would be prepared to agree with them and with the King of the Netherlands on this particular point.

It appears, however, by Mr. Forsyth's note of the 28th April, that this hope has been disappointed, and that the President finds himself unable to admit the distinction drawn in this respect between the Bay of Fundy and the Atlantic Ocean.

Under these circumstances, His Majesty's Government cannot see how any useful result could arise out of the proposed survey; and it appears to them, on the contrary, that if such survey did not furnish fresh subjects of difference between the two Governments, it could at best only bring the question back to the same point at which it now stands.

For it is to be presumed that the commissioners would begin by exploring the due north line mentioned in the Treaty, and it is obvious that in pursuing that line they could not, until they had crossed over to the northward of the river St. John, find any highlands from which rivers flow into the St. Lawrence, while it is equally clear that after they had crossed over to the northward of the river St. John, they could find no highlands from which any rivers flow into the Atlantic according to the strict interpretation of the Treaty.

But they might find, northward of the St. John, highlands separating rivers which flow into the St. Lawrence, from rivers which flow into the bay of Fundy; and, in that case, what would the Commissioners have to do? The American commissioners would say, they had found the highlands of the Treaty; the British commissioners would declare that those were not the highlands which the Treaty describes.

Would the commissioners then come back to their respective Governments for that decision on the River Question, which ought to have been made before they set out? or, failing to come to an agreement amongst themselves, while pursuing the due north line, would they at once, and without further reference to their Governments, endeavour to find to the westward of that line some other highlands, which the two Governments might agree to accept as separating rivers which flow into the St. Lawrence, from rivers, which, by the consent of both parties, flow into the Atlantic Ocean?

His Majesty's Government have not yet understood that this latter course of proceeding is intended by the President; but if his proposal is to be so interpreted, much of the difficulty attending its execution would undoubtedly be removed.

The President, however, has suggested another way of getting over the embarrassment of the river question; and to this plan His Majesty's Government regret that it is not in their power to assent. The President suggests, that the commission of survey should be empowered to decide this point of difference. But His Majesty's Government cannot admit that this point could properly be referred to such a commission. The river question is one which turns upon no local survey, and for the decision of which no farther geographical or topographical information can be required. It turns upon the interpretation to be put upon the words of the Treaty of 1783, and upon the application of that interpretation to geographical facts, already well known and ascertained. A Commission of survey therefore has no peculiar competency to decide such a question. But to refer that question to any authority would be to submit it to a fresh arbitration; and if His Majesty's Government were prepared to agree to a fresh arbitration, which is by no means the case, such arbitration ought necessarily to include all the points in dispute between the two Governments, and not to be confined to one particular point alone.

With respect then to the President's proposal for a commission of exploration and survey, His Majesty's Government could only agree to such a commission provided there were a previous understanding between the two Governments; that although neither should be required to give up its own interpretation of the river question, yet as the commission of survey would be intended for purposes of conciliation, and with a view of putting an end to discussions on controverted points, the Commissioners should be instructed to search for highlands, upon the character of which no doubt could exist on either side.

But if this modification of the President's proposal should not prove ac-



ceptable to the Government of the United States, the only remaining way of arriving at an adjustment of the difference would be to abandon altogether the attempt to draw a line in conformity with the words of the Treaty of 1783; and to fix upon a conventional line, to be drawn according to equitable principles and with a view to the respective interests and convenience of the two parties.

His Majesty's Government are perfectly ready to treat for such a line, and they conceive that the natural features of the disputed territory would afford peculiar facilities for drawing it.

When a tract of country is claimed by each of two States, and when each party is equally convinced of the justice of its own claim to the whole of the district in question, the fairest way of settling the controversy would seem to be to divide in equal portions between the two claimants the territory in dispute.

Such a mode of arrangement appears to be consistent with the natural principles of equity.

His Majesty's Government would therefore propose to that of the United States, to adjust the present difference, by dividing equally between Great Britain and the United States the territory in dispute; allotting to each party that portion which, from contiguity or other circumstances, would be most desirable as a possession for each.

The general outline of such a division would be, that the boundary between the two states should be drawn as required by the Treaty, due north, from the head of the St. Croix river, and should be carried straight on till it intersected the St. John; from thence it should run up the St. John, to the southernmost source of that river; and from that point it should be drawn to the head of the Connecticut river, in such manner as to make the northern and southern allotments of the divided territory as nearly as possible equal to each other in extent; the northern allotment to remain with Great Britain, the southern allotment to belong to the United States.

You are therefore instructed to present to Mr. Forsyth a note, of which I enclose you a copy,\* for the purpose of enabling him to bring distinctly before the Government of the United States, the propositions now made by His Majesty's Government.

I am, &c.

(Signed)

PALMERSTON.

*Charles Bankhead, Esq.*

&c. &c. &c.

No. 47.

*Charles Bankhead, Esq. to Viscount Palmerston.—(Received January 13, 1836.)*  
My Lord, *Washington, December 8, 1835.*

I HAVE the honor to transmit to your Lordship a copy of the message communicated by the President of the United States, this day, to both Houses of Congress.

I have the honor to be, &c.

(Signed)

CHARLES BANKHEAD.

*Viscount Palmerston, G. C. B.*

&c. &c. &c.

Inclosure in No. 47.

*Extract of Message from the President of the United States to Congress.*

IN the settlement of the question of the north-eastern boundary little progress has been made. Great Britain declined acceding to the proposition of the United States, presented in accordance with the resolution of the Senate, unless certain preliminary conditions were admitted, which I deemed incompatible with a satisfactory and rightful adjustment of the controversy. Waiting

\* The note being (*mutatis mutandis*) in the words of this despatch, it is not thought necessary to print it in this place.

for some distinct proposal from the Government of Great Britain, which has been invited, I can only repeat the expression of my confidence that with the strong mutual disposition which I believe exists, to make a just arrangement, this perplexing question can be settled with a due regard to the well founded pretensions and pacific policy of all the parties to it. Events are frequently occurring on the north-eastern frontier, of a character to impress upon all the necessity of a speedy and definitive termination of the dispute. This consideration, added to the desire, common to both, to relieve the liberal and friendly relations so happily existing between the two countries, from all embarrassment, will no doubt have its just influence upon both.

7th December, 1835.

No. 48

*Charles Bankhead, Esq. to Viscount Palmerston.—(Received January 25, 1836.)*  
(Extract.) *Washington, December 29, 1835.*

I HAD the honor to receive on the 27th instant, your Lordship's despatch of the 30th October, inclosing a note, which you have instructed me to present to the Secretary of State, containing the views of His Majesty's Government upon the question of a north-east boundary, between the province of New Brunswick and the United States.

I lost no time in submitting this paper to Mr. Forsyth, and I accompanied its presentation with the expression of a strong hope, that the liberal and reasonable propositions which it contained would be viewed by the President as an earnest of the friendly feelings manifested by His Majesty, to settle this important question, upon a basis of reciprocal advantage; and I added that we looked forward with confidence to a corresponding sentiment on the part of the American Government. Mr. Forsyth declined to make any observations upon the contents of my note, farther than to express his decided opinion, that the proposal made by your Lordship for a conventional line of boundary, could never be adopted, inasmuch as the State of Maine would not agree to accept a smaller portion of the territory than that given to her by the King of the Netherlands, whose award she thought fit to refuse.

With respect to the other proposal mentioned by your Lordship, Mr. Forsyth stated to me, that he should enter into the discussion of it with the President, without loss of time, and with every wish, if possible, to avail himself of its object.

No. 49.

*Charles Bankhead, Esq. to Viscount Palmerston.—(Received March 29.)*

My Lord,

*Washington, March 5, 1836.*

I HAVE the honour to transmit to your Lordship, the copy of a note, which I received on the second instant, from the Secretary of State of the United States, in answer to the one, addressed by me to this Government on the 28th December last, on the question of the north-east boundary between His Majesty's north American provinces and the United States.

Your Lordship will observe that Mr. Forsyth endeavours to combat the construction put upon that part of the subject, called "the River Question;" he adheres to the opinion already advanced by the Government of the United States upon that point of difference; and he quotes the public Acts of Great Britain, in defining the boundary between Canada and Nova Scotia, as establishing the American position of the north-west angle of the latter province.

This is ground, however, which has frequently been disputed; and I do not perceive that Mr. Forsyth has brought any new feature forward, in attempting to refute your Lordship's clear interpretation of "the River Question."

The conventional line, proposed by His Majesty's Government, is pronounced



to be such, as the State of Maine would never consent to adopt, inasmuch as it gives to that State, a far less accession of territory, than the King of the Netherlands awarded to her, and which she refused.

The offer is again put forward to make the river St. John the boundary between the two countries, although I have repeatedly stated the impossibility, on the part of the British Government, of agreeing to such a proposition.

The recent proceedings in that portion of the territory in dispute, called the Indian Stream settlement, have induced the President to propose an immediate arrangement of that part of the boundary, leaving to ulterior negotiation, the other points of difference.

In a conversation with Mr. Forsyth upon the contents of his note, I mentioned to him, that he did not sufficiently weigh that part of my communication of December last, in which a modification of the President's proposition was conditionally acceded to by the British Government.

I ought here to state to your Lordship, that on presenting my note in December last to Mr. Forsyth, he objected to the modified proposal of His Majesty's Government, as precluding the possibility of the question being terminated during the Presidency of General Jackson, as he knew the President was most anxious to retire from his present situation, after having settled every point of difference existing between the United States and foreign Powers, and especially the question of boundary with Great Britain. On my calling his attention again to this point, he said that he had taken your Lordship's modified proposition to be nothing more than a civil way of getting rid of the question of commission altogether. I immediately referred him to that part of my note, and after reading it over attentively, he said, that if my Government really wished for the formation of a commission of exploration and survey, whose labours were to be afterwards submitted to their respective Governments, and whose decisions or opinions were not to be final, he thought that the President, would have no objection in acceding to such a proposal. He asked me of what materials the commission to be appointed, were likely to be composed, and whether the composition of either of the two, named by the President, was intended to be taken. I told him that I had no definite instructions upon that point; but I presumed that some agreement or convention would be necessary, before the commissioners were named, in order to regulate the course of proceeding, and to provide for, and give effect to its results.

I have the honour to transmit to your Lordship the copy of a note, which I thought it my duty to present to the Secretary of State, founded upon the above view of the preliminary measure proposed by your Lordship.

I have the honour to be, &c.

Viscount Palmerston, G.C.B.

(Signed) CHARLES BANKHEAD.

&c. &c. &c.

P.S.—I have this instant received Mr. Forsyth's answer to my last note, and I beg leave to transmit a copy of it to your Lordship.

C. B.

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Inclosure No. 1 in No. 49.

*The Hon. John Forsyth to Charles Bankhead, Esq.*

*Department of State, Washington, February 29, 1836.*

THE Undersigned, Secretary of State of the United States, has been instructed to reply to the note of Mr. Bankhead of the 28th December last, on the subject of the north-eastern boundary of the United States. The President sees, with great satisfaction, the continued assurances of the British Government of its earnest desire speedily and justly to settle the matter in controversy by an arrangement honorable to both parties, and believes that his own conciliatory disposition will be best manifested by a direct attention to the points now presented by His Britannic Majesty's Government, with a view to some definite understanding on the subject.

The award of the arbiter having been now abandoned by both parties to the arbitration, the whole subject is open as if there never had been a submission of it.

The President perceives in Mr. Bankhead's note no allusion to any portion

of the line, except that beginning at the source of the St. Croix, and terminating at the head of the Connecticut River. Supposing this omission to bring into view the residue of the boundary line between the United States, and the dominions of His Britannic Majesty, has been the result of a conviction that the parties so far understood each other, as to be satisfied that on that part of the subject a settlement could be made without difficulty or delay, whenever it was important to them to make it, the President has instructed the Undersigned to confine himself to the points touched by Mr. Bankhead's note with this single suggestion—that events of a very grave character have lately occurred, which impress upon his mind a conviction that an establishment of that part of the line as to which the parties are nearly of accord, had better be made at once, unless the efforts now making should promise an immediate adjustment of the whole controversy.

The President finds, with great regret, that His Britannic Majesty's Government adheres to its objection to the appointment of a commission to be chosen in either of the modes proposed in former communications on the part of the United States. This regret is heightened by the conviction that the proposition upon which it is founded, "that the river question," as it is called, "is a question of construction only," although repeated on various occasions by Great Britain, is demonstrably untenable. Indeed, it is plausible only, when material and most important words of description in the Treaty are omitted in quoting from that instrument. The Treaty marks the two determining points of the line in dispute—the source of the St. Croix and the north-west angle of Nova Scotia. Is it a question of Treaty construction only where the north-west angle of Nova Scotia is? A survey of Nova Scotia, as known at the date of the Treaty of Peace, necessarily establishes that point. Where is it to be found according to the public acts of Great Britain? Is it to be found on a line beginning on the westernmost bend of the Bay des Chaleurs, and thence passing along the highlands dividing the waters falling into the St. Lawrence, from the waters falling into the sea? Can His Majesty's Government expect the Government of the United States to consent before the selection of a commission of examination and survey, and the appointment of an umpire to decide on the contingency of their disagreement, that the terminating point of the line running due north from the source of the St. Croix, is to be alone looked for on highlands, which cannot be reached from the westernmost bend of the Bay des Chaleurs, but by running directly across high mountains, deep valleys, and the large rivers that flow through them? Agreement between the United States and Great Britain on this point is impossible, while His Majesty's Government continues to maintain this position. The President, therefore, as at present informed, is under the necessity of looking to the new and conventional line offered in Mr. Bankhead's note. That equity in disputes about territory, when both parties are satisfied of the justice of their respective pretensions, requires a fair division of the disputed property, is a truth the President freely admits; but the Undersigned is instructed to remind Mr. Bankhead of what has been heretofore stated, that in a conventional line the wishes and interests of the State of Maine were to be consulted, and that the President cannot, in justice to himself, or to that State, make any proposition utterly irreconcilable with her previously well known opinions on the subject. His Majesty's Government will not have forgotten, that the principle of compromise and equitable division, was adopted by the King of the Netherlands, in the line recommended by him to the parties, a line rejected by the United States, because unjust to Maine; and yet the line proposed by the King of the Netherlands, gave to Great Britain little more than two millions, while the proposition now made by His Britannic Majesty's Government secures to Great Britain, of the disputed land, more than four millions of acres.

The division offered by Mr. Bankhead's note is not in harmony with the equitable rule from which it is said to spring; and if it were in conformity with it, could not be accepted without disrespect to the previous decisions and just expectations of Maine. The President is far from supposing this proposition is founded upon a desire of His Majesty's Government to acquire territory, or that the quantity of land secured to Great Britain, in the proposed compromise, was the leading motive to the offer made. His Majesty's Government have no doubt made the offer without regard to the extent of the territory falling to the north or south of the St. John, from a belief that a change in the character of the



boundary line, substituting a river for a highland boundary, would be useful in preventing territorial disputes in future. Coinciding in this view of the subject, the President is nevertheless compelled to decline the boundary proposed, as inconsistent with the known wishes, rights and decisions of the State. With a view however, to terminate at once all controversy, and satisfactorily, without regard to the extent of territory lost by one party or acquired by the other, to establish an unchangeable and definite and indisputable boundary, the President will, if His Majesty's Government consent to it, apply to the State of Maine for its assent to make the river St. John from its source to its mouth, the boundary between Maine and His Britannic Majesty's dominions in that part of North America.

The Undersigned avails himself, &c.

(Signed)

JOHN FORSYTH.

*Charles Bankhead, Esq.*

&c. &c. &c.

Inclosure 2 in No. 49.

*Charles Bankhead, Esq. to the Hon. John Forsyth.*

*Washington, March 4, 1836.*

THE Undersigned, &c., has the honour to acknowledge the receipt of the note, which Mr. Forsyth, &c., addressed to him on the 29th ultimo, upon the subject of the north-east boundary between His Majesty's North American possessions and the United States.

The rejection on the part of the President of the conventional line, which the Undersigned had the honor to propose in his note of the 28th December, cannot but cause great regret to His Majesty's Government, inasmuch as it was proposed with a view to settle this protracted question of boundary, and as offering as fair and equal a division of the territory, as they could possibly be required to subscribe to.

The Undersigned, however, thinks it right to refer Mr. Forsyth to that part of his note of the 28th December, wherein the proposition of the President for a commission of exploration and survey is fully discussed. It is there stated that His Majesty's Government could only agree to such a commission, provided there was a previous understanding between the two Governments that, although neither should be required to give up its own interpretation of "the river question," yet as the commission of survey would be intended for purposes of conciliation, and with a view of putting an end to discussions on controverted points, the commissioners should be instructed to search for highlands upon the character of which no doubt could exist on either side.

It appears to the Undersigned, that the Secretary of State in his answer of the 29th ultimo, has not given this modification on the part of His Majesty's Government of the President's proposition, the full weight to which it was entitled. Indeed, it was offered with a view of meeting as far as practicable, the wishes of the President, and of endeavouring by such a preliminary measure, to bring about a settlement of the boundary, upon a basis satisfactory to both parties.

With this view, the Undersigned has the honour again to submit to the Secretary of State, the modified proposal of His Majesty's Government, bearing in mind that the commissioners who may be appointed, are not to *decide* upon points of difference, but are merely to present to the respective Governments the result of their labours, which it is hoped and believed will pave the way for an ultimate settlement of the question.

The Undersigned considers it due to the conciliatory manner in which the President has acted throughout this discussion, to state frankly and clearly, that the proposition offered in Mr. Forsyth's note, to make the river St. John, from its source to its mouth, the boundary between the United States and His Majesty's province of New Brunswick, is one to which he is convinced His Majesty's Government will never agree; and he abstained in his note of the 28th December, from any allusion to it, as the best proof he could give of its utter inadmissibility.

The Undersigned has the honour, &c.

*The Hon. John Forsyth.*

(Signed)

CHARLES BANKHEAD.

&c. &c. &c.

Inclosure 3 in No. 49.

*The Hon. John Forsyth to Charles Bankhead, Esq.*

*Department of State, Washington, March 5, 1836.*

THE Undersigned, Secretary of State of the United States, has the honor to acknowledge the receipt of the note of Mr. Bankhead, &c., dated the 4th instant, in answer to that addressed to him by the Undersigned on the 29th ultimo, upon the subject of the north-eastern boundary, between the United States and His Majesty's possessions in North America.

Mr. Bankhead's communication having been submitted to the consideration of the President, the Undersigned is instructed to express the regret which is felt, that his proposition to make the river St. John the boundary between the State of Maine and His Majesty's province of New Brunswick, the acceptance of which, it is believed would have removed a fruitful source of vexatious difficulties, will, in the opinion of Mr. Bankhead, be declined by His Majesty's Government. The Government of the United States cannot, however, relinquish the hope, that this proposal, when brought before His Majesty's Cabinet, and considered with the attention and deliberation due to its merits, as well as to the important nature of the question with which it is connected, will be viewed in a more favorable light than that in which it appears to have presented itself to Mr. Bankhead. If, however, this expectation should be disappointed, and the river boundary be rejected, it will be necessary, before the President consents to the modification of his previous proposition, for the appointment of a commission of exploration and survey, to be informed more fully of the views of the British Government in offering the modification, so that he may be enabled to judge how the report of the commission (which as now proposed to be constituted, is not to decide upon points of difference), when it shall have been rendered, is likely to lead to an ultimate settlement of the question of boundary between the two Governments.

The President also desires to be informed which of the modes proposed for the selection of commissioners is the one intended to be accepted, with the modification suggested by His Britannic Majesty's Government.

Whenever Mr. Bankhead is fully instructed on these points, the Undersigned is prepared, by the directions of the President, to make a definite reply, which will be dictated by a sincere desire on the part of the President, to adopt any proposition that promises a speedy and satisfactory termination of this long pending and perplexing controversy.

The Undersigned, &c.

(Signed) JOHN FORSYTH.

*Charles Bankhead, Esq.,*

*&c. &c. &c.*

No. 50.

*Henry S. Fox, Esq., to Viscount Palmerston.—(Received August 8.)*

My Lord,

*Washington, July 14, 1836.*

THE Senate of the United States, upon the motion of Mr. Webster, the Senator from Massachusetts, passed a resolution on the 21st of May, requesting the President to communicate whatever correspondence had passed with Great Britain upon the question of the north-eastern boundary, from the period of the rejection of the award of the King of the Netherlands down to the present time.

The correspondence was accordingly communicated to the Senate on the 15th of June. The President stated, in a message accompanying the communication, that he had felt it his duty to refuse complying with a similar request on the part of the House of Representatives, at the last session of Congress, judging it inexpedient to publish the correspondence while the negotiation was pending; but that as the negotiation was undertaken under the special advice of the Senate, he deemed it improper to withhold from them the information required, submitting it to them to decide whether it would be expedient to publish the documents before the negotiation was closed.



Notwithstanding this clear indication by the President of his wishes upon the subject, and his opinion that the documents ought not, at the present moment, to be made public, the Senate passed a further resolution on the 23rd of June, upon the motion of Mr. Clay, Chairman of the Committee of Foreign Relations, ordering the publication of the correspondence.

I have the honor herewith to enclose a printed copy of this publication. The whole of the documents, however, which it contains, consisting of correspondence between the American Secretaries of State and His Majesty's Legation in this country, are, of course, in the possession of His Majesty's Government.

As it was the Senate, in its executive capacity, that decided upon rejecting the award of the arbitrator, the Government could not withhold from that body the information required, but Mr. Forsyth does not conceal from me that both the President and himself are greatly annoyed at this forced and premature publication, as they consider it, of a diplomatic correspondence; and Mr. Forsyth has seemed anxious to explain to me, for the satisfaction of your Lordship, the peculiar circumstances under which the publication has taken place. I must observe that I do not myself perceive in the documents which are published, any thing that is calculated to impede or embarrass the future conduct of the negotiation.

I have the honor to be, &c.

Viscount Palmerston, G.C.B.

(Signed)

H. S. FOX.

&c. &c. &c.

No. 51.

*Henry S. Fox, Esq. to Viscount Palmerston.—(Received January 5, 1837.)*

My Lord,

*Washington, December 6, 1836.*

I HAVE the honour to transmit to your Lordship a copy of the message of the President of the United States, which was communicated this day to both Houses of Congress.

I have the honour to be, &c.

Viscount Palmerston, G. C. B.

(Signed)

H. S. FOX.

&c &c. &c.

Inclosure in No. 51.

*Extract from the Message of the President of the United States to Congress.*

BUT although the present state of our foreign affairs, standing without important change as they did when you separated in July last, is flattering in the extreme, I regret to say, that many questions of an interesting character, at issue with other powers, are yet unadjusted. Amongst the most prominent of these, is that of our north-eastern boundary. With an undiminished confidence in the sincere desire of His Britannic Majesty's Government to adjust that question, I am not yet in possession of the precise grounds upon which it proposes a satisfactory adjustment.

*December 6, 1836.*

No. 52.

*Henry S. Fox, Esq. to Viscount Palmerston.—(Received April 24.)*

(Extract)

*Washington, March 29, 1837.*

I LOSE no time in conveying to your Lordship's knowledge the enclosed official note, addressed to me by the United States' Secretary of State, Mr. Forsyth, upon several important subjects connected with the question of the boundary line between the United States and His Majesty's possessions in North America.

Your Lordship will perceive that Mr. Forsyth's note concludes with strongly urging the wishes of the President's Government for an early settlement of the

important question of the boundary line, recurring to the proposals transmitted home to your Lordship through His Majesty's Chargé d'Affaires, Mr. Bankhead, in the early part of last year.

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Inclosure in No. 52.

*The Hon. John Forsyth to Henry S. Fox, Esq.*

(Extract.)

*Department of State, Washington, March 23, 1837.*

THE proceedings above alluded \* to considered, in connection with incidents on other parts of the boundary line, well known to His Majesty's Ministers, would seem to render it indispensable to the maintenance of those liberal and friendly relations between the two countries, which both Governments are so sincerely anxious to preserve, that they should come to a speedy adjustment on the subject. The recent resolutions of the State of Maine, to which the projected railroad from St. Andrews to Quebec gave rise, requesting the President of the United States to cause the line established by the Treaty of 1783 to be run, and monuments to be established thereon; and the appropriation of twenty thousand dollars by Congress at their late session to enable the executive to carry that request into effect, with a subsequent earnest application from the Representatives of Maine for an immediate compliance with it, afford additional incentives to exertion to bring this controversy to a conclusion, not to be disregarded by the President of the United States.

The President, therefore, awaits with great anxiety the decision of His Majesty's Government on the proposition made by the Undersigned to His Majesty's Chargé d'Affaires at Washington, in February 1836, suggesting the River St. John, from its mouth to its source, as an eligible and convenient line of boundary.

No small degree of disappointment has been felt, that this decision, already long expected, has not been given; but the hope is entertained, that the result of this protracted deliberation will prove favourable to the wishes of the President, and that, even if that proposition be not acceded to by His Britannic Majesty, some definitive offer, looking to a prompt termination of the controversy, will be made without further delay.

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No. 53.

*Viscount Palmerston to Henry S. Fox, Esq.*

Sir,

*Foreign Office, November 19, 1837.*

VARIOUS circumstances have hitherto prevented Her Majesty's Government from giving you instructions with reference to the negotiation with the United States, upon the subject of the north-eastern boundary. Those instructions it is now my duty to convey to you.

I have accordingly to request that you will express to the Government of the United States the sincere regret of that of Great Britain, that the long continued endeavours of both parties to come to a settlement of this important matter, have hitherto been unavailing; but you will assure Mr. Forsyth that the British Government feel an undiminished desire to co-operate with the Cabinet of Washington for the attainment of this object of mutual interest; and that they have learned with great satisfaction that their sentiments on this point are fully shared by the existing President.

The communications which during the last few years have taken place upon this subject between the two Governments, if they have not led to a solution of the questions at issue, have at least narrowed the field of future discussion.

Both Governments have agreed to consider the award of the King of the Netherlands as binding upon neither party; and the two Governments therefore are as free in this respect as they were before the reference to that Sovereign was made.

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\* Relating to the projected railway through the disputed territory. See Class B.



The British Government despairing of the possibility of drawing a line that shall be in literal conformity with the words of the Treaty of 1783, has suggested that a conventional boundary should be substituted for the line described in the Treaty; and has proposed that, in accordance with the principles of equity, and in pursuance of the general practice of mankind in similar cases, the object of difference should be equally divided between the two differing parties, each of whom is alike convinced of the justice of its own claim.

The United States' Government has replied, that to such an arrangement it has no power to agree; that until the line of the Treaty shall have been otherwise determined, the State of Maine will continue to assume, that the line which it claims is the true line of 1783, and will assert, that all the land up to that line is territory of Maine; that consequently such a division of the disputed territory as is proposed by Great Britain, would be considered by Maine as tantamount to a cession of what that State regards as part of its own territory, and that the central Government has no power to agree to such an arrangement without the consent of the State concerned.

Her Majesty's Government exceedingly regret that such an obstacle should exist, to prevent that settlement, which, under all the circumstances of the case, appears to be the simplest, the readiest, the most satisfactory and the most just. Nor can Her Majesty's Government admit that the objection of the State of Maine is well founded. For the principle on which that objection rests is as good for Great Britain as it is for Maine. If Maine thinks itself entitled to contend, that until the true line described in the Treaty is determined, the boundary claimed by Maine must be regarded as the right one, Great Britain is surely still more intitled to insist upon a similar pretension; and to assert, that until the line of the Treaty shall be established to the satisfaction of both parties, the whole of the disputed territory ought to be considered as belonging to the British Crown, because Great Britain is the original possessor; and all the territory which has not been proved to have been by Treaty ceded by her, must be looked upon as belonging to her still. But the very existence of such conflicting pretensions seems to point out the expediency of a compromise; and what compromise can be more fair, than that, which would give to each party one half of the subject matter of dispute?

A conventional line different from that described in the Treaty, was agreed to, as stated by Mr. Forsyth in his note of 28th April, 1835, with respect to the boundary westward from the lake of the woods. Why should such a line not be agreed to likewise, for the boundary eastward from the river Connecticut?

Her Majesty's Government cannot refrain from again pressing this proposition upon the serious consideration of the Government of the United States, as the arrangement which would be the best calculated to effect a prompt and satisfactory settlement between the two Powers.

The Government of the United States, indeed, while it expressed a doubt of its being able to obtain the assent of Maine to the above-mentioned proposal, did nevertheless express its readiness to apply to the State of Maine for the assent of that State to the adoption of another conventional line, which should make the river St. John, from its source to its mouth, the boundary between the two countries. But it is difficult to understand upon what grounds any expectation could have been formed that such a proposal could be entertained by the British Government.

For such an arrangement would give to the United States even greater advantages than they would obtain by an unconditional acquiescence in their claim to the whole of the disputed territory; because such an arrangement would, in the first place, give to Maine all that part of the disputed territory which lies to the south of the St. John, and would, in the next place, in exchange for the remaining part of the disputed territory which lies to the north of the St. John, add to the State of Maine a large district of New Brunswick lying between the United States' boundary and the southern part of the course of the St. John; a district smaller indeed in extent, but much more considerable in value, than the portion of the disputed territory which lies to the north of the St. John.

But with respect to a conventional line, generally, the Government of Washington has stated, that it has not at present the powers constitutionally requisite, for treating for such a line, and has no hopes of obtaining such powers until the impossibility of establishing the line described by the Treaty shall have been

more completely demonstrated by the failure of another attempt to trace that line by a local survey.

Under these circumstances it appears that a conventional line cannot at present be agreed upon, and that such a mode of settlement is, in the existing state of the negotiation, impossible. Thus, then, the award of the King of the Netherlands has been abandoned by both parties in consequence of its rejection by the American Senate; and a negotiation between the two Governments for a conventional line suited to the interests and convenience of the two parties, has for the present been rendered impossible by difficulties arising on the part of the United States; and both Governments are alike averse to a new arbitration. In this state of things the Government of the United States has proposed to the British Cabinet, that another attempt should be made to trace out a boundary according to the letter of the Treaty, and that a commission of exploration and survey should be appointed for that purpose.

Her Majesty's Government have little expectation that such a commission could lead to any useful result, and on that account would be disposed to object to the measure. But at the same time they are so unwilling to reject the only plan now left, which seems to afford a chance of making any further advance in this long pending matter, that they would not withhold their consent to such a commission, if the principle upon which it was to be formed, and the manner in which it was to be proceed, could be satisfactorily settled.

The United States' Government have proposed two modes in which such a commission might be constituted; first, that it might consist of commissioners named in equal numbers by each of the two Governments, with an umpire, to be selected by some friendly European Power; secondly, that it might be entirely composed of scientific Europeans, to be selected by a friendly Sovereign; and might be accompanied in its operations by agents of the two different parties, in order that such agents might give to the commissioners assistance and information.

If such a commission were to be appointed, Her Majesty's Government think that the first of these two modes of constructing it would be the best, and that it should consist of members chosen in equal numbers by each of the two Governments. It might, however, be better that the umpire should be selected by the members of the commission themselves, rather than that the two Governments should apply to a third Power to make such a choice.

The object of this commission, as understood by Her Majesty's Government, would be to explore the disputed territory, in order to find within its limits, dividing highlands, which may answer the description of the Treaty; the search being first to be made in the due north line, from the monument at the head of the St. Croix; and if no such highlands should be found in that meridian, the search to be then continued to the westward thereof; and Her Majesty's Government have stated their opinion, that in order to avoid all fruitless disputes, as to the character of such highlands, the commissioners should be instructed to look for highlands which both parties might acknowledge as fulfilling the conditions required by the Treaty.

Mr. Forsyth, in his note of the 5th March, 1836, expresses a wish to know how the report of the commission would, according to the views of Her Majesty's Government, be likely, when rendered, to lead to an ultimate settlement of the question of boundary between the two Governments.

In reply to this enquiry Her Majesty's Government would beg to observe, that the proposal to appoint a commission originated not with them, but with the Government of the United States; and that it is therefore rather for the Government of the United States than for that of Great Britain, to answer this question.

Her Majesty's Government have themselves already stated that they have little expectation that such a commission could lead to any useful result, and that they would on that account be disposed to object to it; and if Her Majesty's Government were now to agree to appoint such a commission, it would be only in compliance with the desire so strongly expressed by the Government of the United States, and in spite of doubts which Her Majesty's Government still continue to entertain of the efficacy of the measure.

But with respect to the way in which the report of the commission might be likely to lead to an ultimate settlement of the question, Her Majesty's Government, in the first place, conceive that it was meant by the Government of the United States, that if the commission should discover highlands



answering to the description of the Treaty, a connecting line drawn from those highlands to the head of the St. Croix, should be deemed to be a portion of the boundary line between the two countries.

But Her Majesty's Government would further beg to refer Mr. Forsyth to the notes of Mr. McLane of the 5th June, 1833, and of the 11th and 28th March, 1834, on this subject; in which it will be seen that the Government of the United States appears to have contemplated as one of the possible results of the proposed commission of exploration, that such additional information might possibly be obtained respecting the features of the country in the district to which the Treaty relates, as might remove all doubt as to the impracticability of laying down a boundary in strict accordance with the letter of the Treaty.

And if the investigations of the proposed commission should shew that there is no reasonable prospect of finding a line strictly conformable with the description contained in the Treaty of 1783, the constitutional difficulties which now prevent the United States from agreeing to a conventional line, may possibly be removed, and the way may thus be prepared for the satisfactory settlement of the difference by an equitable division of the disputed territory.

But if the two Governments should agree to the appointment of such a commission, it would be necessary that their agreement should be first recorded in a Convention, and it would obviously be indispensable that the State of Maine should be an assenting party to the arrangement.

I am, &c.,

(Signed)

PALMERSTON.

Henry S. Fox, Esq.  
&c. &c. &c.

#### No. 54.

*Viscount Palmerston to Henry S. Fox, Esq.*

Sir,

*Foreign Office, November 19, 1837.*

IN looking back to the correspondence which has passed between the British and American Governments upon the boundary question, I observe, that there is one point, with respect to which it seems necessary to reply to some observations contained in one of the notes of Mr. Forsyth.

Her Majesty's Government with a view to prevail upon that of the United States to come to an understanding with Great Britain upon the river question, had stated, that the King of the Netherlands, in his award, had decided that question according to the British interpretation of it, and had expressed his opinion, that the rivers which fall into the Bay of Fundy, are not to be considered as Atlantic Rivers for the purposes of the Treaty.

Mr. Forsyth, however, in his note of 28th April, 1835, controverts this assertion, and maintains that the King of the Netherlands did not, in his award, express such an opinion; and Mr. Forsyth quotes a passage from the award in support of this proposition.

But it appears to Her Majesty's Government, that Mr. Forsyth has not correctly apprehended the meaning of the passage which he quotes; for in the passage in question Mr. Forsyth supposes that the word "*alone*" is governed by the verb "*include*," whereas an attentive examination of the context will shew, that the word "*alone*" is governed by the verb "*divide*," and that the real meaning of the passage is, that the rivers flowing north and south from the highlands claimed by the United States, may be arranged in two genera; the first genus comprehending the rivers which fall into the St. Lawrence; the second genus comprehending those whose waters, in some manner or other, find their way into the Atlantic; but that even if according to this general classification, and in contradistinction from rivers flowing into the St. Lawrence, the rivers which fall into the bays of Chaleurs and Fundy, might be comprised in the same genus with the rivers which fall directly into the Atlantic, still the St. John and Restigouche form a distinct species by themselves, and do not belong to the species of rivers which fall *directly* into the Atlantic; for the St. John and Restigouche are not divided in company with any such last-mentioned rivers which fall into the St. Lawrence. And the award goes on to say, that, moreover, if this distinction between these two species were confounded, an erroneous

interpretation would be applied to a Treaty in which every separate word must be supposed to have a meaning ; and a generic distinction would be given to cases which are purely specific.

The above appears to be the true meaning of the passage quoted by Mr. Forsyth ; but if that passage had not been in itself sufficiently explicit, which Her Majesty's Government think it is, the passage which immediately follows it, would remove all doubt as to what the opinion of the King of the Netherlands was upon the river question ; for that passage, setting forth reasons against the line of boundary claimed by the United States, goes on to say, that such line would not even separate the St. Lawrence rivers immediately from the St. John and Restigouche ; and that thus the rivers which this line would separate from the St. Lawrence rivers, would need, *in order to reach the Atlantic*, the aid of *two intermediaries*, first the rivers St. John and Restigouche, and *secondly the bays of Chaleurs and Fundy*.

Now, it is evident from this passage, that the King of the Netherlands deemed the bays of Fundy and Chaleurs to be, for purposes of the Treaty, as distinct and separate from the Atlantic Ocean, as are the rivers St. John and Restigouche. For he specifically mentions those rivers and those bays, as the channels through which certain rivers would have to pass, in their way from the northern range of dividing highlands, down to the Atlantic Ocean ; and it is clear that he considers that the waters of those highland rivers would not reach the Atlantic Ocean until after they had travelled through the whole extent, either of the Restigouche and the bay of Chaleurs, or of the St. John and the bay of Fundy, as the case might be ; and for this reason, among others, the King of the Netherlands declared it to be his opinion that the line north of the St. John claimed by the United States, is not the line intended by the Treaty.

You will present a note to this effect to Mr. Forsyth.

I am, &c.

Henry S. Fox, Esq.  
&c. &c. &c.

(Signed)

PALMERSTON.

No. 55.

*Henry S. Fox, Esq. to Viscount Palmerston.—(Received December 26.)*

My Lord,

*Washington, December 5, 1837.*

I HAVE the honour herewith to enclose a copy of the message of the President of the United States, which was communicated this day to both Houses of Congress, at the commencement of the ordinary session.

I have the honour to be, &c.

Viscount Palmerston, G.C.B.  
&c. &c. &c.

(Signed)

H. S. FOX.

Inclosure in No. 55.

*Extract from the Message of the President of the United States to Congress.*

OF pending questions, the most important is that which exists with the Government of Great Britain in respect to our north-eastern boundary. It is with unfeigned regret that the people of the United States must look back upon the abortive efforts made by the Executive, for a period of more than half a century, to determine, what no nation should suffer long to remain in dispute, the true line which divides its possessions from those of other Powers. The nature of the settlements on the borders of the United States and of the neighboring territory, was for a season such that this perhaps was not indispensable to a faithful performance of the duties of the Federal Government. Time has, however, changed this state of things, and has brought about a condition of affairs in which the true interests of both countries imperatively require that this question should be put at rest. It is not to be disguised that, with full confidence often expressed in the desire of the British Government to terminate it, we are apparently as far from its adjustment as we were at the time of signing the Treaty of Peace in 1783. The sole result of long pending negotiations, and a perplexing arbitration, appears to be a conviction, on its part, that a conventional line must be adopted, from the impossibility of ascertaining the true one according to the description contained in that Treaty.



Without coinciding in this opinion, which is not thought to be well founded, my predecessor gave the strongest proof of the earnest desire of the United States to terminate, satisfactorily, this dispute, by proposing the substitution of a conventional line, if the consent of the States interested in the question could be obtained. To this proposition no answer has as yet been received. The attention of the British Government has, however, been urgently invited to the subject, and its reply cannot, I am confident, be much longer delayed. The general relations between Great Britain and the United States are of the most friendly character, and I am well satisfied of the sincere disposition of that Government to maintain them upon their present footing. This disposition has also, I am persuaded, become more general with the people of England than at any previous period.

It is scarcely necessary to say to you how cordially it is reciprocated by the Government and people of the United States. The conviction, which must be common to all, of the injurious consequences that result from keeping open this irritating question, and the certainty that its final settlement cannot be much longer deferred, will, I trust, lead to an early and satisfactory adjustment. At your last session I laid before you the recent communications between the two Governments, and between this Government and that of the State of Maine, in whose solicitude, concerning a subject in which she has so deep an interest, every portion of the Union participates.

No. 56.

*Henry S. Fox, Esq. to Viscount Palmerston.—(Received February 14 .)*

My Lord,

*Washington, January 10, 1838.*

I HAVE had the honour to receive, by the messenger Kraus, your Lordship's two despatches of the 19th of November, conveying to me instructions upon the question of the north-eastern boundary. I have this day presented two official notes to the Secretary of State of the United States, in conformity with your Lordship's instructions. I shall lose no time in acquainting your Lordship with the earliest intimation which I may receive of the answer likely to be returned to the above communications by the Government of the United States.

I have the honour to be, &c.

*Viscount Palmerston, G.C.B.*

(Signed)

H. S. FOX.

&c.      &c.      &c.

## APPENDIX.

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### I.

Definitive Treaty of Peace and Friendship between His Britannic Majesty and the United States of America. Signed at Paris, 3rd September, 1783.

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Appendix.

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I.

In the name of the most holy and undivided Trinity.

Treaty of 1783.

IT having pleased the Divine providence to dispose the heart of the Most Serene and Most Potent Prince, George the IIIrd, by the grace of God, King of Great Britain, France, and Ireland, defender of the faith, Duke of Brunswick and Lunenburgh, Arch-Treasurer, and Prince Elector of the holy Roman Empire, &c., and of the United States of America, to forget all past misunderstandings and differences that have unhappily interrupted the good correspondence and friendship which they mutually wish to restore; and to establish such a beneficial and satisfactory intercourse between the two countries, upon the ground of reciprocal advantages and mutual convenience, as may promote and secure to both perpetual peace and harmony; and having for this desirable end already laid the foundation of peace and reconciliation, by the provisional Articles signed at Paris, on the 30th of November, 1782, by the Commissioners empowered on each part; which Articles were agreed to be inserted in, and to constitute, the Treaty of Peace, proposed to be concluded between the Crown of Great Britain and the said United States, but which Treaty was not to be concluded until terms of peace should be agreed upon between Great Britain and France, and His Britannick Majesty should be ready to conclude such Treaty accordingly; and the Treaty between Great Britain and France having since been concluded, His Britannic Majesty and the United States of America, in order to carry into full effect the provisional Articles above mentioned, according to the tenor thereof, have constituted and appointed, that is to say, His Britannick Majesty on his part, David Hartley, Esq., Member of the Parliament of Great Britain; and the said United States, on their part, John Adams, Esq., late a Commissioner of the United States of America at the Court of Versailles, late Delegate in Congress from the State of Massachusetts, and Chief Justice of the said State, and Minister Plenipotentiary of the said United States to their High Mightinesses the States General of the United Netherlands; Benjamin Franklin, Esq., late Delegate in Congress from the State of Pennsylvania, President of the Convention of the said State, and Minister Plenipotentiary from the United States of America at the Court of Versailles; John Jay Esq., late President of Congress, and Chief Justice of the State of New York, and Minister Plenipotentiary from the said United States, at the Court of Madrid; to be the Plenipotentiaries for the concluding and signing the present Definitive Treaty: Who, after having reciprocally communicated their respective full powers, have agreed upon and confirmed the following Articles:

### ARTICLE I.

His Britannick Majesty acknowledges the said United States, viz. New Hampshire, Massachusetts Bay, Rhode Island, and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina,



## Appendix.

## I.

Treaty of 1783.

and Georgia, to be free, Sovereign, and Independent States; that he treats with them as such; and for himself, his heirs and successors, relinquishes all claims to the Government, propriety and territorial rights of the same, and every part thereof.

## ARTICLE II.

And that all disputes which might arise in future on the subject of the boundaries of the said United States may be prevented, it is hereby agreed and declared, that the following are and shall be their boundaries, viz. From the north-west angle of Nova Scotia, viz. that angle which is formed by a line drawn due north, from the source of St. Croix River to the highlands, along the said highlands which divide those rivers that empty themselves into the river St. Lawrence, from those which fall into the Atlantic Ocean, to the north-westernmost head of Connecticut river; thence down along the middle of that river, to the forty-fifth degree of north latitude; from thence by a line due west on said latitude until it strikes the river Iroquois or Cataraquy; thence along the middle of said river, into Lake Ontario; through the middle of said Lake, until it strikes the communication by water between that Lake and Lake Erie; thence along the middle of said communication into Lake Erie; through the middle of said Lake, until it arrives at the water-communication between that Lake and Lake Huron; thence along the middle of said water-communication into the Lake Huron; thence through the middle of said Lake to the water-communication between that Lake and Lake Superior; thence through Lake Superior, northward of the Isles Royal and Phelipeaux, to the Long Lake; thence through the middle of said Long Lake, and the water-communication between it and the Lake of the Woods, to the said Lake of the Woods; thence through the said Lake to the most north-western point thereof, and from thence on a due west course to the river Mississippi; thence by a line to be drawn along the middle of the said river Mississippi, until it shall intersect the northernmost part of the thirty-first degree of north latitude:—South, by a line to be drawn due east from the determination of the line last mentioned, in the latitude of thirty-one degrees north of the Equator, to the middle of the river Apalachicola or Catahouche; thence along the middle thereof, to its junction with the Flint river; thence strait to the head of St. Mary's river, and thence down along the middle of St. Mary's river to the Atlantic Ocean:—East, by a line to be drawn along the middle of the river St. Croix, from its mouth in the Bay of Fundy to its source; and from its source directly north to the aforesaid highlands, which divide the rivers that fall into the Atlantic Ocean, from those which fall into the river St. Lawrence: comprehending all Islands within twenty leagues of any part of the shores of the United States, and lying between lines to be drawn due East from the points where the aforesaid boundaries between Nova Scotia on the one part, and east Florida on the other, shall respectively touch the Bay of Fundy, and the Atlantic Ocean; excepting such Islands as now are, or heretofore have been, within the limits of the said province of Nova Scotia.

## ARTICLE III.

It is agreed, that the people of the United States shall continue to enjoy unmolested the right to take fish of every kind on the grand bank and on all the other banks of Newfoundland: also in the gulph of St. Lawrence, and at all other places in the sea, where the inhabitants of both countries used at any time heretofore to fish. And also that the inhabitants of the United States shall have liberty to take fish of every kind on such part of the coast of Newfoundland, as British Fishermen shall use, (but not to dry or cure the same on that Island) and also on the coasts, bays and creeks of all other of His Britannic Majesty's dominions in America; and that the American fishermen shall have liberty to dry and cure fish in any of the unsettled bays, harbours, and creeks of Nova Scotia, Magdalen Islands, and Labrador, so long as the same shall remain unsettled; but so soon as the same or either of them shall be settled, it shall not be lawful for the said fishermen to dry or cure fish at such settlement, without a previous agreement for that purpose with the inhabitants, proprietors or possessors of the ground.

## ARTICLE IV.

It is agreed, that creditors on either side shall meet with no lawful impediment to the recovery of the full value in sterling money of all *bonâ fide* debts heretofore contracted.

## ARTICLE V.

It is agreed that the Congress shall earnestly recommend it to the Legislatures of the respective States, to provide for the restitution of all estates, rights and properties which have been confiscated, belonging to real British subjects: and also of the estates, rights and properties of persons resident in districts in the possession of His Majesty's arms, and who have not borne arms against the said United States: and that persons of any other

description shall have free liberty to go to any part or parts of any of the thirteen United States, and therein to remain twelve months unmolested in their endeavors to obtain the restitution of such of their estates, rights and properties as may have been confiscated: and that Congress shall also earnestly recommend to the several States, a reconsideration and revision of all acts or laws regarding the premises, so as to render the said laws or acts perfectly consistent, not only with justice and equity, but with that spirit of conciliation, which, on the return of the blessings of peace, should universally prevail. And that Congress shall also earnestly recommend to the several States that the estates, rights, and properties of such last-mentioned persons shall be restored to them, they refunding to any persons who may be now in possession the *bond fide* price (where any has been given) which such persons may have paid on purchasing any of the said lands, rights or properties since the confiscation.

And it is agreed, that all persons who have any interest in confiscated lands, either by debts, marriage settlements, or otherwise, shall meet with no lawful impediment in the prosecution of their just rights.

#### ARTICLE VI.

That there shall be no future confiscations made, nor any prosecutions commenced against any person or persons, for or by reason of the part which he or they may have taken in the present war; and that no person shall on that account suffer any future loss or damage either in his person, liberty or property; and that those who may be in confinement on such charges at the time of the ratification of the Treaty in America, shall be immediately set at liberty, and the prosecutions so commenced be discontinued.

#### ARTICLE VII.

There shall be a firm and perpetual peace between His Britannick Majesty and the said States, and between the subjects of the one and the citizens of the other, wherefore all hostilities both by sea and land, shall from henceforth cease: all prisoners on both sides shall be set at liberty, and His Britannic Majesty shall, with all convenient speed, and without causing any destruction, or carrying away any Negroes, or other property of the American Inhabitants, withdraw all his armies, garrisons and fleets, from the said United States, and from every port, place and harbour within the same; leaving in all fortifications the American artillery that may be therein: and shall also order and cause all archives, records, deeds and papers belonging to any of the said States, or their citizens, which in the course of the war, may have fallen into the hands of his officers, to be forthwith restored and delivered to the proper States and persons to whom they belong.

#### ARTICLE VIII.

The navigation of the river Mississippi, from its source to the ocean, shall for ever remain free and open to the subjects of Great Britain, and the citizens of the United States.

#### ARTICLE IX.

In case it should so happen that any place or territory belonging to Great Britain, or to the United States, should have been conquered by the arms of either, from the other, before the arrival of the said provisional Articles in America, it is agreed that the same shall be restored without difficulty, and without requiring any compensation.

#### ARTICLE X.

The solemn ratifications of the present Treaty, expedited in good and due form, shall be exchanged between the Contracting Parties, in the space of six months, or sooner, if possible, to be computed from the day of the signature of the present Treaty.

In witness whereof, we, the Undersigned, their Ministers Plenipotentiary, have in their name, and in virtue of our full powers, signed with our hands the present definitive Treaty, and caused the seals of our arms to be affixed thereto.

Done at Paris, this third day of September, in the year of our Lord, one thousand seven hundred and eighty-three.

(L.S.) D. HARTLEY.

(L.S.) JOHN ADAMS.  
(L.S.) B. FRANKLIN.  
(L.S.) JOHN JAY.



## II.

The Fifth Article of the Treaty signed at Ghent, December 24, 1814,

## ARTICLE V.

Appendix.

II.

Fifth Article of the  
Treaty of Ghent.

WHEREAS neither that point of the highlands lying due north from the Source of the River St. Croix, designated in the former Treaty of Peace between the two powers, as the north-west angle of Nova Scotia, nor the north-westernmost head of Connecticut River have yet been ascertained; and whereas that part of the boundary line between the dominions of the two powers, which extends from the source of the River St. Croix, directly north to the above mentioned north-west angle of Nova Scotia, thence along the said highlands which divide those rivers, that empty themselves into the river St. Lawrence, from those which fall into the Atlantic Ocean to the north-westernmost head of Connecticut River, thence down along the middle of that river to the 45th degree of north latitude, thence by a line due west on said latitude, until it strikes the river Iroquois, or Cataraguy, has not yet been surveyed, it is agreed that for these several purposes, two commissioners shall be appointed, sworn and authorised, to act exactly in the manner directed with respect to those mentioned in the next preceding Article, unless otherwise specified in the present Article. The said commissioners shall meet at St. Andrew's, in the province of New Brunswick, and shall have power to adjourn to such other place or places as they shall think fit. The said commissioners shall have power to ascertain and determine the points above-mentioned, in conformity with the provisions of the said Treaty of Peace of 1783; and shall cause the boundary aforesaid, from the source of the river St. Croix, to the river Iroquois, or Cataraguy, to be surveyed and marked according to the said provisions; the said commissioners shall make a map of the said boundary, and annex to it a declaration under their hands and seals, certifying it to be the true map of the said boundary, and particularizing the latitude and longitude of the north-west angle of Nova Scotia, of the north-westernmost head of Connecticut River, and of such other points of the said boundary as they may deem proper. And both parties agree to consider such map and declaration as finally and conclusively fixing the said boundary. And in the event of the said two commissioners differing, or both, or either of them, refusing, declining or wilfully omitting to act, such reports, declarations or statements shall be made by them, or either of them, and such reference to a Friendly Sovereign or State shall be made in all respects, as in the latter part of the fourth Article is contained, and in as full a manner as if the same was herein repeated.

## III.

Convention between His Majesty and the United States of America, relative to the reference to Arbitration of the disputed points under the Fifth Article of the Treaty of Ghent. Signed at London, September 29, 1827.

III.

Convention of Ar-  
bitration.

WHEREAS it is provided by the fifth Article of the Treaty of Ghent, that in case the commissioners appointed under that Article, for the settlement of the boundary line therein described, should not be able to agree upon such boundary line, the report or reports of those commissioners, stating the points on which they had differed, should be submitted to some Friendly Sovereign or State; and that the decision given by such Sovereign or State on such points of difference, should be considered by the contracting parties as final and conclusive. That case having now arisen, and it having therefore become expedient to proceed to and regulate the reference as above described, His Majesty The King of the United Kingdom of Great Britain and Ireland, and the United States of America, have for that purpose, named their Plenipotentiaries, that is to say:—

His Majesty, on His part, has appointed the Right Honourable Charles Grant, a Member of Parliament, a member of His said Majesty's Most Honourable Privy Council, and President of the Committee of the Privy Council for Affairs of Trade and Foreign Plantations; and Henry Unwin Addington, Esquire:—

And the President of the United States has appointed Albert Gallatin, their Envoy Extraordinary, and Minister Plenipotentiary at the Court of His Britannic Majesty:—

Who, after having exchanged their respective Full Powers, found to be in due and proper form, have agreed to and concluded the following Articles:

Appendix.

III.

Convention of Arbitration.

#### ARTICLE I.

It is agreed that the points of difference which have arisen in the settlement of the boundary between the British and American Dominions, as described in the fifth Article of the Treaty of Ghent, shall be referred, as therein provided, to some friendly Sovereign or State, who shall be invited to investigate, and make a decision upon such points of difference.

The two Contracting Powers engage to proceed in concert to the choice of such friendly Sovereign or State, as soon as the ratifications of this Convention shall have been exchanged, and to use their best endeavours to obtain a decision, if practicable, within two years after the Arbiter shall have signified His consent to act as such.

#### ARTICLE II.

The reports, and documents thereunto annexed, of the commissioners appointed to carry into execution the fifth Article of the Treaty of Ghent, being so voluminous and complicated, as to render it improbable that any Sovereign or State should be willing or able to undertake the office of investigating and arbitrating upon them, it is hereby agreed to substitute for those reports new and separate statements of the respective cases, severally drawn up by each of the Contracting Parties, in such form and terms as each may think fit.

The said statements, when prepared, shall be mutually communicated to each other by the Contracting Parties; that is to say, by Great Britain to the Minister, or Chargé d'Affaires, of the United States at London; and by the United States to His Britannic Majesty's Minister, or Chargé d'Affaires, at Washington, within fifteen months after the exchange of the ratifications of the present Convention.

After such communication shall have taken place, each party shall have the power of drawing up a second and definitive statement, if it thinks fit so to do, in reply to the statement of the other party so communicated, which definitive statement shall also be mutually communicated, in the same manner as aforesaid, to each other, by the Contracting Parties, within twenty-one months after the exchange of the ratifications of the present Convention.

#### ARTICLE III.

Each of the Contracting Parties shall, within nine months after the exchange of ratifications of this Convention, communicate to the other, in the same manner as aforesaid, all the evidence intended to be brought in support of its claim, beyond that which is contained in the report of the commissioners, or papers thereunto annexed, and other written documents laid before the commission under the fifth Article of the Treaty of Ghent,

Each of the Contracting Parties shall be bound, on the application of the other party, made within six months after the exchange of the ratifications of this Convention, to give authentic copies of such individually specified Acts of a public nature, relating to the territory in question, intended to be laid as evidence before the arbiter, as have been issued under the authority, or are in the exclusive possession, of each party.

No maps, Surveys, or topographical evidence of any description, shall be adduced by either party beyond that which is hereinafter stipulated; nor shall any fresh evidence, of any description, be adduced or adverted to, by either party, other than that mutually communicated or applied for, as aforesaid.

Each party shall have full power to incorporate in, or annex to, either its first or second statement, any portion of the reports of the commissioners, or papers thereunto annexed, and other written documents laid before the commission under the fifth Article of the Treaty of Ghent, or of the other evidence mutually communicated or applied for, as above provided, which it may think fit.

#### ARTICLE IV.

The map, called Mitchell's map, by which the framers of the Treaty of 1783, are acknowledged to have regulated their joint and official proceedings, and the map A, which



## Appendix.

## III.

## Convention of Arbitration.

has been agreed on by the Contracting Parties, as a delineation of the water courses, and of the boundary lines in reference to the said water courses, as contended for by each party respectively, and which has accordingly been signed by the above named Plenipotentiaries at the same time with this Convention, shall be annexed to the statements of the Contracting Parties, and be the only maps that shall be considered as evidence, mutually acknowledged by the Contracting Parties, of the topography of the country.

It shall, however, be lawful for either party to annex to its respective first statement, for the purposes of general illustration, any of the maps, surveys, or topographical delineations which were filed with the commissioners under the fifth Article of the Treaty of Ghent, any engraved map heretofore published, and also a transcript of the above-mentioned map A, or of a section thereof, in which transcript each party may lay down the highlands, or other features of the country, as it shall think fit, the water courses, and the boundary lines, as claimed by each party, remaining as laid down in the said map A.

But this transcript, as well as all the other maps, surveys, or topographical delineations, other than the map A, and Mitchell's map, intended to be thus annexed by either party to the respective statements, shall be communicated to the other party, in the same manner as aforesaid, within nine months after the exchange of the ratifications of this Convention, and shall be subject to such objections and observations as the other Contracting Party may deem it expedient to make thereto, and shall annex to his first statement, either in the margin of such transcript, map or maps, or otherwise.

## ARTICLE V.

All the statements, papers, maps, and documents above-mentioned, and which shall have been mutually communicated as aforesaid, shall without any addition, subtraction, or alteration whatsoever, be jointly and simultaneously delivered in to the Arbitrating Sovereign or State, within two years after the exchange of ratifications of this Convention, unless the arbiter, should not, within that time, have consented to act as such; in which case all the said statements, papers, maps, and documents shall be laid before him within six months after the time when he shall have consented so to act. No other statements, papers, maps, or documents shall ever be laid before the arbiter, except as hereinafter provided.

## ARTICLE VI.

In order to facilitate the attainment of a just and sound decision on the part of the arbiter, it is agreed that, in case the said arbiter should desire further elucidation or evidence, in regard to any specific point contained in any of the said statements submitted to him, the requisition for such elucidation or evidence, shall be simultaneously made to both parties, who shall thereupon be permitted to bring further evidence, if required, and to make each a written reply to the specific questions submitted by the said Arbiter, but no further; and such evidence and replies shall be immediately communicated by each party to the other.

And in case the arbiter should find the topographical evidence laid, as aforesaid, before him, insufficient for the purposes of a sound and just decision, he shall have the power of ordering additional surveys to be made of any portions of the disputed boundary line or territory, as he may think fit; which surveys shall be made at the joint expence of the Contracting Parties, and be considered as conclusive by them.

## ARTICLE VII.

The decision of the arbiter, when given, shall be taken as final and conclusive; and it shall be carried, without reserve, into immediate effect, by commissioners appointed, for that purpose, by the Contracting Parties.

## ARTICLE VIII.

This Convention shall be ratified, and the ratifications shall be exchanged in nine months from the date hereof, or sooner, if possible.

In witness whereof, we, the respective Plenipotentiaries, have signed the same, and have affixed thereto the Seals of our Arms.

Done at London, the twenty-ninth day of September, in the year of our Lord, one thousand eight hundred and twenty-seven.

(L.S.)	CHA. GRANT.
(L.S.)	HENRY UNWIN ADDINGTON.
(L.S.)	ALBERT GALLATIN.

## IV.

**Decision of His Majesty the King of the Netherlands, upon the Disputed Points of Boundary under the Fifth Article of the Treaty of Ghent, between Great Britain and the United States of America.**

NOUS, GUILLAUME, par la Grâce de Dieu Roi des Pays-Bas, Prince d'Orange-Nassau, Grand Duc de Luxembourg, &c. &c. &c.

AYANT accepté les fonctions d'Arbitrateur, qui Nous ont été conférées par la note de l'Ambassadeur Extraordinaire et Plénipotentiaire de la Grande Brétagne, et par celle du Chargé d'Affaires des Etats Unis d'Amérique, à Notre Ministre des Affaires Etrangères, en date du 12 Janvier, 1829, d'après l'Article V. du Traité de Gand du 24 Décembre, 1814, et l'Article I. de la Convention conclue entre ces Puissances à Londres le 29 Septembre, 1827, dans le différend qui s'est élevé entre Elles au sujet des limites de leurs possessions respectives :

Animé du désir sincère de répondre par une décision scrupuleuse et impartiale, à la confiance qu'elle Nous ont témoignée, et de leur donner ainsi un nouveau gage du haut prix que nous y attachons :

Ayant à cet effet dûment examiné et mûrement pesé le contenu du premier exposé ainsi que de l'exposé définitif du dit différend, que nous ont respectivement remis, le 1 Avril de l'année 1830, l'Ambassadeur Extraordinaire et Plénipotentiaire de Sa Majesté Britannique, et l'Envoyé Extraordinaire et Ministre Plénipotentiaire des Etats Unis d'Amérique, avec toutes les pièces qui y ont été jointes à l'appui :

Voulant accomplir aujourd'hui les obligations que nous venons de contracter par l'acceptation des fonctions d'Arbitrateur dans le susdit différend, en portant à la connaissance des deux Hautes Parties intéressées le résultat de Notre examen et Notre opinion sur les trois points dans lesquels se divise de leur commun accord la contestation :

Considérant que les trois points précités doivent être jugés d'après les Traités, Actes et Conventions conclus entre les deux Puissances, savoir, le Traité de Paix de 1783, le Traité d'Amitié, de Commerce et de Navigation de 1794, la Déclaration relative à la Rivière Saint Croix de 1798, le Traité de Paix signé à Gand en 1814, la Convention du 29 Septembre, 1827, et la Carte de Mitchell, et la Carte (A.) citées dans cette Convention :

Déclarons que,—

Quant au premier point, savoir, la question, Quel est l'endroit désigné dans les Traités comme l'angle nord-ouest de la Nouvelle Ecosse, et quels sont les Highlands séparant les Rivières qui se déchargent dans le Fleuve St. Laurent, de celles tombant dans l'Océan Atlantique, le long desquels doit être tirée la Ligne de Limites depuis cet angle jusqu'à la source nord-ouest de la Rivière Connecticut ?

Considérant,—

Que les Hautes Parties intéressées réclament respectivement cette Ligne de Limites au midi et au nord de la Rivière St. John, et ont indiqué chacune sur la Carte (A.) la ligne qu'elles demandent :

Considérant,—

Que selon les exemples allégués le terme Highlands s'applique non seulement à un pays montueux ou élevé, mais encore à un terrain, qui, sans être montueux, sépare des eaux

Appendix.

## IV.

Decision of the  
King of the  
Netherlands.



## Appendix.

## IV.

Decision of the  
King of the  
Netherlands.

coulant dans une direction différente, et qu'ainsi le caractère plus ou moins montueux et élevé, du pays à travers lequel sont tirées les deux lignes respectivement réclamées au nord et au midi de la Rivière St. John, ne saurait faire la base d'une option entr'elles :

Que le texte du second Article du Traité de Paix de 1783, reproduit en partie les expressions dont on s'est antérieurement servi dans la Proclamation de 1763, et dans l'Acte de Quebec de 1774, pour indiquer les limites méridionales du Gouvernement de Quebec, depuis le Lac Champlain, "in forty-five degrees of north latitude, along the highlands which divide the rivers that empty themselves into the River St. Lawrence from those which fall into the sea, and also along the north coast of the Bay des Chaleurs:"

Qu'en 1763, 1765, 1773, et 1782, il a été établi, que la Nouvelle Ecosse serait bornée au nord, jusqu'à l'extrémité occidentale de la Baie des Chaleurs, par la limite méridionale de la Province de Quebec; que cette délimitation se retrouve pour la Province de Quebec, dans la commission du Gouverneur Général de Quebec de 1786, où l'on a fait usage des termes de la Proclamation de 1763, et de l'Acte de Quebec de 1774; et dans les Commissions de 1786 et postérieures des Gouverneurs du Nouveau Brunswick pour cette dernière Province, ainsi que dans un grand nombre de Cartes antérieures et postérieures au Traité de 1783, et que l'Article Première du dit Traité cite nominativement les Etats, dont l'indépendance est reconnue :

Mais que cette mention n'implique point l'entière coïncidence des limites entre les deux Puissances, réglées par l'Article suivant, avec l'ancienne délimitation des Provinces Anglaises, dont le maintien n'est pas mentionnée dans le Traité de 1783, et qui par ses variations continuelles, et par l'incertitude qui continua d'exister à son égard, provoqua de tems à autre des différends entre les Autorités Provinciales :

Qu'il résulte de la ligne tirée par le Traité de 1783 à travers les grands lacs à l'ouest du Fleuve St. Laurent, une déviation des anciennes Chartes Provinciales en ce qui concerne les Limites :

Qu'on chercherait en vain à s'expliquer pourquoi, si l'on entendait maintenir l'ancienne délimitation Provinciale, l'on a précisément fait usage dans la négociation de 1783 de la carte de Mitchell, publiée en 1755, et par conséquent antérieure à la Proclamation de 1763, et à l'Acte de Quebec de 1774 :

Que la Grande Bretagne proposa d'abord la Rivière Piscataqua pour limite à l'est des Etats Unis, et ensuite n'accepta pas la proposition de faire fixer plus tard la Limite du Maine, ou de Massachussett's Bay :

Que le Traité de Gand stipula un nouvel examen sur les lieux le quel ne pouvait s'appliquer à une limite historique ou administrative; et que dès-lors l'ancienne délimitation des Provinces Anglaises n'offre pas non plus une base de décision :

Que la longitude de l'angle nord-ouest de la Nouvelle Ecosse, laquelle doit coïncider avec celle de la source de la Rivière St. Croix, fut seulement fixée par la Déclaration de 1798, qui indiqua cette rivière :

Que le Traité d'Amitié, de Commerce et de Navigation de 1794 mentionne le doute qui s'était élevé à l'égard de la Rivière St. Croix; et que les premières Instructions du Congrès lors des négociations, dont résulta le Traité de 1783, placent le dit angle à la source de la Rivière St. John :

Que la latitude de cet angle se trouve sur les bords du St. Laurent, selon la carte de Mitchell, reconnue pour avoir réglé le travail combiné et officiel des négociateurs du Traité de 1783; au lieu, qu'en vertu de la délimitation du Gouvernement de Quebec, l'on devrait la chercher aux highlands séparant les rivières qui se déchargent dans la Rivière St. Laurent, de celles tombant dans la mer :

Que la nature du terrain à l'est de l'angle précité n'ayant pas été indiqué dans le Traité de 1783, il ne s'en laisse pas tirer d'argument pour le fixer de préférence dans tel endroit, plutôt que dans un autre :

Qu'au surplus, si l'on croyait devoir le rapprocher de la source de la Rivière St. Croix, et le chercher, par exemple, à Mars Hill, il serait d'autant plus possible que la limite du Nouveau Brunswick tirée de-là au nord-est, donnât à cette Province plusieurs angles nord-ouest situés davantage au nord, et à l'est, selon leur plus grand éloignement de Mars Hill, que le nombre de degrés de l'angle mentionné dans le Traité a été passé sous silence :

Que par conséquent l'angle nord-ouest de la Nouvelle Ecosse, dont il est ici question, ayant été inconnu en 1783, et le Traité de Gand l'ayant encore déclaré non constaté, la mention de cet angle historique dans le Traité de 1783, doit être considérée comme une pétition de principe, qui ne présente aucune base de décision; tandis que si on l'envisage comme un point topographique, eù égard à la définition, viz. "that angle which is formed by a line drawn due north from the source of the St. Croix River to the Highlands," il forme simplement l'extrémité de la ligne "along the said Highlands, which divide those rivers that empty themselves into the River St. Lawrence, from those which fall into the Atlantic Ocean," extrémité que la mention de l'angle nord-ouest de la Nouvelle Ecosse ne contribue pas à constater, et qui, étant à trouver elle-même, ne saurait mener à la découverte de la ligne qu'elle termine :

Enfin, que les argumens tirés des droits de Souveraineté exercés sur le fief de Madawaska, et sur le Madawaska Settlement, admis même que cet exercice fût suffisamment prouvé, ne peuvent point décider la question, par la raison, que ces deux établissemens

n'embrassent qu'un terrain partiel de celui en litige ; que les Hautes Parties intéressées ont reconnu le pays situé entre les lignes respectivement réclamées par elles, comme faisant un objet de contestation, et qu'ainsi la possession ne saurait être censée déroger au droit ; et que si l'on écarte l'ancienne délimitation des Provinces alléguée en faveur de la ligne réclamée au nord de la Rivière St. John, et spécialement celle mentionnée dans la Proclamation de 1763 et dans l'Acte de Quebec de 1774, l'on ne saurait admettre à l'appui de la ligne demandée au Midi de la Rivière St. John, des argumens tendant à prouver que telle partie du terrain litigieux appartient au Canada ou au Nouveau Brunswick :

Considérant,—

Que la question, depouillée des argumens non décisifs tirées du caractère plus ou moins montueux de terrain de l'ancienne délimitation des Provinces de l'angle nord-ouest de la Nouvelle Ecosse, et de l'état de possession, se réduit en dernière analyse à celles-ci, Quelle est la ligne tirée droit au nord depuis la source de la Rivière St. Croix, et quel est le terrain, n'importe qu'il soit montueux et élevé ou non, qui, depuis cette ligne jusqu'à la source nord-ouest de la Rivière Connecticut, sépare les rivières se déchargeant dans le Fleuve St. Laurent, de celles qui tombent dans l'Océan Atlantique ; que les Hautes Parties intéressées ne sont d'accord que, sur la circonstance que la limite à trouver doit être déterminée par une telle ligne, et par un tel terrain ; qu'elles le sont encore, depuis la Déclaration de 1798, sur la réponse à faire à la première question, à l'exception de la latitude, à laquelle la ligne tirée droit au nord de la source de la Rivière St. Croix doit se terminer : que cette latitude coïncide avec l'extrémité du terrain, qui depuis cette ligne jusqu'à la source nord-ouest de la Rivière Connecticut sépare les rivières se déchargeant dans le Fleuve St. Laurent, de celles qui tombent dans l'Océan Atlantique, et que, dès-lors, il ne reste qu'à déterminer ce terrain :

Qu'en se livrant à cette opération, on trouve d'un côté,—

D'abord, que si par l'adoption de la ligne réclamée au Nord de la Rivière St. John, la Grande Bretagne ne pourrait pas être estimée obtenir un terrain de moindre valeur, que si elle eût accepté en 1783 la Rivière St. John pour frontière, eût égard à la situation du Pays entre les Rivières St. John et St. Croix dans le voisinage de la mer, et à la possession des deux rives de la Rivière St. John dans la dernière partie de son cours, cette compensation serait cependant détruite par l'interruption de la communication entre le Bas Canada et le Nouveau Brunswick, spécialement entre Quebec et Fredericton, et qu'on chercherait vainement quels motifs auraient déterminé la Cour de Londres à consentir à une semblable interruption.

Que si, en second lieu, en opposition aux Rivières se déchargeant dans le Fleuve St. Laurent, on aurait convenablement, d'après le langage usité en géographie, pu comprendre les Rivières tombant dans les Baies de Fundy et de Chaleurs, avec celles se jetant directement dans l'Océan Atlantique, dans la dénomination générique des rivières tombant dans l'Océan Atlantique, il serait hasardeux de ranger dans l'espèce, parmi cette catégorie, les Rivières St. John et Ristigouche, que la ligne réclamée au nord de la Rivière St. John sépare immédiatement des rivières se déchargeant dans le Fleuve St. Laurent, non pas avec d'autres rivières coulant dans l'Océan Atlantique, mais seules et d'appliquer ainsi, en interprétant la délimitation fixée par un Traité, où chaque expression doit compter, à deux cas exclusivement spéciaux, et où il ne s'agit pas du genre, une expression générique qui leur assignerait un sens plus large, ou qui, étendue aux Scoudiac Lakes, Penobscott et Kennebec, qui se jettent directement dans l'Océan Atlantique, établirait le principe, que le Traité de 1713 a entendu des highlands séparant aussi bien médiatement qu'immédiatement les rivières se déchargeant dans le Fleuve St. Laurent, de celles qui tombent dans l'Océan Atlantique, principe également réalisé par les deux lignes :

Troisièmement, que la ligne réclamée au nord de la rivière St. John ne sépare pas même immédiatement les rivières se déchargeant dans le Fleuve St. Laurent, des Rivières St. John et Ristigouche, mais seulement des rivières qui se jettent dans les St. John et Ristigouche, à l'exception de la dernière partie de cette ligne près des sources de la Rivière St. John ; et qu'ainsi, pour arriver à l'Océan Atlantique, les rivières séparées par cette Ligne de celles se déchargeant dans le Fleuve St. Laurent, ont chacune besoin de deux intermédiaires, savoir, les unes de la Rivière St. John et de la Baie de Fundy, et les autres de la Rivière Ristigouche et de la Baie des Chaleurs :

Et de l'autre,—

Qu'on ne peut expliquer suffisamment comment, si les Hautes Parties Contractantes ont entendu établir en 1783 la limite au Midi de la Rivière St. John, cette rivière, à laquelle le terrain litigieux doit en grande partie son caractère distinctif, a été neutralisée et mise hors de cause :

Que le verbe “ divide ” paraît exiger la contiguité des objets qui doivent être “ divided : ”

Que la dite limite forme seulement à son extrémité occidentale la séparation immédiate entre la Rivière Mettjarmette et la source nord-ouest de Penobscott, et ne sépare que médiatement les rivières se déchargeant dans le Fleuve St. Laurent, des eaux du Kennebec, du Penobscott et des Scoudiac Lakes ; tandis que la limite réclamée au nord de la Rivière St. John sépare immédiatement les eaux des Rivières Ristigouche et St. John, et médiatement les Scoudiac Lakes, et les eaux des Rivières Pénobscott et Kennebec, des Rivières se déchargeant dans le Fleuve St. Laurent, savoir, les Rivières Beaver, Metis, Rimousky, Trois

Appendix.

IV.

Decision of the  
King of the  
Netherlands.



## Appendix.

## IV.

Decision of the  
King of the  
Netherlands.

Pistoles, Green, du Loup, Kamouraska, Ouelle, Bras, St. Nicholas, du Sud, la Famine et Chaudière :

Que même en mettant hors de cause les Rivières Ristigouche et St. John par le motif qu'elles ne pourraient être censées tomber dans l'Océan Atlantique, la ligne Septentrionale se trouverait encore aussi près des Scondiac Lakes, et des eaux du Penobscott et du Kennebec que la ligne méridionale des Rivières Beaver, Metis, Rimousky, et autres, se déchargeant dans le Fleuve St. Laurent, et formerait aussi bien que l'autre une séparation médiante entre celles-ci, et les Rivières tombant dans l'Océan Atlantique :

Que la rencontre antérieure de la limite méridionale, lorsque de la source de la Rivière St. Croix on tire un ligne au nord, pourrait seulement lui assurer un avantage accessoire sur l'autre, dans le cas où l'une et l'autre limite réunissent au même degré les qualités exigées par les Traités :

Et que le sort assigné par celui de 1783 au Connecticut, et au St. Laurent même, écarte la supposition, que les deux Puissances auraient voulu faire tomber la totalité de chaque rivière, depuis son origine jusqu'à son embouchure, en partage à l'une ou à l'autre :

Considérant,—

Que d'après ce qui précède, les argumens allégués de part et d'autre, et les pièces exhibées à l'appui, ne peuvent être estimés assez prépondérans pour déterminer la préférence en faveur d'une des deux lignes, respectivement réclamées par les Hautes Parties intéressées, comme limites de leurs possessions depuis la source de la Rivière St. Croix, jusqu'à la source nord-ouest de la Rivière Connecticut ; et que la nature du différend, et les stipulations vagues et non suffisamment déterminées du Traité de 1783, n'admettent pas d'adjuger l'une ou l'autre de ces Lignes à l'une des dites Parties, sans blesser les principes du droit et de l'équité envers l'autre :

Considérant,—

Que la question se réduit, comme il a été exprimé ci-dessus, à un choix à faire du terrain séparant les rivières se déchargeant dans le Fleuve St. Laurent, de celles qui tombent dans l'Océan Atlantique, que les hautes parties intéressées se sont entendues à l'égard du cours des eaux, indiqué de commun accord sur la Carte (A.) et présentant le seul élément de décision ; et que dès-lors les circonstances dont dépend cette décision, ne sauraient être éclaircies d'avantage, au moyen de nouvelles recherches topographiques, ni par la production de pièces nouvelles :

Nous sommes d'avis,—

Qu'il conviendra d'adopter pour limite des deux états une ligne tirée droit au nord depuis la source de la Rivière St. Croix jusqu'au point où elle coupe le milieu du thalweg de la Rivière St. John ; de-là le milieu du thalweg de cette rivière, en la remontant jusqu'au point où la Rivière St. Francis se décharge dans la Rivière St. John ; de-là le milieu du thalweg de la Rivière St. Francis, en la remontant jusqu'à la source de sa branche la plus sud-ouest, laquelle source nous indiquons sur la Carte (A.) par la lettre (X.) authentiquée par la signature de notre Ministre des Affaires Etrangères ; de-là une ligne tirée droit à l'ouest jusqu'au point où elle se réunit à la ligne réclamée par les Etats Unis d'Amérique, et tracée sur la Carte (A.) ; de-là cette ligne jusqu'au point où, d'après cette carte, elle coïncide avec celle demandée par la Grande Bretagne ; et de-là la ligne indiquée sur la dite carte par les deux Puissances, jusqu'à la source la plus nord-ouest de la Rivière Connecticut :

Quant au second point, savoir, la question, quelle est la source la plus nord-ouest (north-westernmost head) de la Rivière Connecticut ?

Considérant,—

Que pour résoudre cette question, il s'agit d'opter entre la Rivière du Connecticut Lake, Perry's Stream, Indian Stream, et Hall's Stream :

Considérant,—

Que d'après l'usage adopté en géographie, la source et le lit d'une rivière sont indiqués par le nom de la rivière attaché à cette source et à ce lit, et par leur plus grande importance relative, comparée à celle d'autres eaux, communiquant avec cette rivière :

Considérant,—

Qu'une lettre officielle de 1772 mentionne déjà le nom de Hull's Brook, et que dans une lettre officielle postérieure de la même année, du même Inspecteur, on trouve Hall's Brook représenté comme une petite rivière tombant dans le Connecticut :

Que la rivière dans laquelle se trouve Connecticut Lake paraît plus considérable que Hall's, Indian, ou Perry's Stream ; que le Connecticut Lake et les deux lacs situés au nord de celui-ci semblent lui assigner un plus grand volume d'eau, qu'aux trois autres rivières ; et qu'en l'admettant comme le lit du Connecticut, on prolonge d'avantage ce Fleuve, que si l'on donnait la préférence à une de ces trois autres rivières :

Enfin que la Carte (A.) ayant été reconnue dans la Convention de 1827 comme indiquant le cours des eaux, l'autorité de cette Carte semble s'étendre également à leur dénomination, vu qu'en cas de contestation tel nom de rivière, ou de lac, sur lequel on n'eut pas été d'accord, eut pu avoir été omis, que la dite carte mentionne Connecticut Lake, et que

le nom de Connecticut Lake implique l'application du nom Connecticut à la rivière qui traverse de dit lac :

Nous sommes d'avis,—

Que le ruisseau situé le plus au nord-ouest de ceux qui coulent dans le plus septentrional des trois lacs, dont le dernier porte le nom de Connecticut Lake, doit être considéré comme la source la plus nord-ouest (north-westernmost head) du Connecticut.

Et quant au troisième point, savoir, la question, Quelle est la limite à tracer depuis la Rivière Connecticut le long du parallèle du quarante-cinq degré de latitude septentrionale, jusqu'au Fleuve St. Laurent, nommé dans les Traités Iroquois ou Cataraguy ?

Considérant,—

Que les Hautes Parties intéressées diffèrent d'opinion sur la question, de savoir, si les Traités exigent un nouveau levé de toute la ligne de limite depuis la rivière Connecticut, jusqu'au Fleuve St. Laurent, nommé dans les Traités Iroquois ou Cataraguy, ou bien seulement le complément des anciens levés provinciaux :

Considérant,—

Que le cinquième Article du Traité de Gand de 1814 ne stipule point qu'on levera telle parties des limites qui n'aurait pas été levée jusqu'ici, mais déclare, que les limites n'ont pas été levées, et établit qu'elles le seront :

Qu'en effet ce levé, dans les rapports entre les deux Puissances doit être censé n'avoir pas eu lieu depuis le Connecticut jusqu'à la Rivière St. Laurent, nommée dans les Traités Iroquois ou Cataraguy, vu que l'ancien levé s'est trouvé inexact, et avait été ordonné non par les deux Puissances d'un commun accord, mais par les anciennes autorités provinciales :

Qu'il est d'usage de suivre, en fixant la latitude, le principe de latitude observée :

Et que le Gouvernement des Etats Unis d'Amérique a établie certaines fortifications à l'endroit dit Rouse's Point, dans la persuasion que le terrain faisait partie de leur territoire, persuasion suffisamment légitimé par la ligne réputée jusqu'alors correspondre avec le quarante-cinq degré de latitude septentrionale :

Nous sommes d'avis,—

Qu'il conviendra de procéder à de nouvelles opérations pour mesurer la latitude observée, afin de tracer la limite depuis la Rivière Connecticut, le long du parallèle du quarante-cinq degré de latitude septentrionale, jusqu'au Fleuve St. Laurent, nommé dans les Traités Iroquois ou Cataraguy; de manière cependant, qu'en tout cas, à l'endroit dit Rouse's Point, le territoire des Etats Unis d'Amérique s'étendra jusqu'au fort qui s'y trouve établi, et comprendra ce Fort et son rayon kilométrique.

Ainsi fait et donné sous Notre Sceau Royal, à la Haye, ce Dix Janvier, de l'an de Grace Mil Huit Cent Trente-un, et de Notre Règne de Dix-huitième.

(Signé) GUILLAUME.

Le Ministre des Affaires Etrangères,

(Signé) VERSTOLK DE SOELEN.

(Translation.)

WE, WILLIAM, by the Grace of God King of the Netherlands, Prince of Orange-Nassau, Grand Duke of Luxembourg, &c. &c. &c.

Having accepted the functions of Arbitrator, which were conferred upon us by the notes addressed to our Minister for Foreign Affairs by the Ambassador Extraordinary and Plenipotentiary of Great Britain, and by the Chargé d'Affaires of the United States of America, on the 12th of January 1829, according to the 5th Article of the Treaty of Ghent, of the 24th December 1814, and the first Article of the Convention concluded between those Powers at London on the 29th of September 1827, in the difference which has arisen between them on the subject of the Boundaries of their respective Possessions :

Animated by a sincere desire to make, by a scrupulous and impartial decision, a suitable return for the confidence which they have shown us, and thus to afford them a new pledge of the high value which we set upon it :

Having for this purpose duly examined and maturely weighed the contents of the first statement as well as of the definitive statement of the said difference, which the Ambassador Extraordinary and Plenipotentiary of His Britannic Majesty and the Envoy Extraordinary and Minister Plenipotentiary of the United States of America respectively delivered to us on the 1st of April of the year 1830, together with all the documents thereunto annexed in support of the same :

Desiring now to fulfil the obligations which we have contracted, by the acceptance of the functions of arbitrator in the above-mentioned difference, by communicating to the two high parties concerned the result of our examination, and our opinion upon the three points into which, by their common agreement, the question in dispute is divided :

Considering that the three points above referred to are to be determined according to the Treaties, Acts and Conventions concluded between the two Powers, that is to say, the

Appendix.

IV.

Decision of the  
King of the  
Netherlands.



## Appendix.

## IV.

Decision of the  
King of the  
Netherlands.

Treaty of Peace of 1783, the Treaty of Amity, Commerce and Navigation of 1794, the Declaration relative to the River St. Croix of 1798, the Treaty of Peace signed at Ghent in 1814, the Convention of the 29th of September 1827, and Mitchell's map, and the map (A.) referred to in that Convention :

We declare,

That with regard to the first point, that is to say, Which is the spot designated in the Treaties as the north-west angle of Nova Scotia, and which are the Highlands dividing the the rivers that empty themselves into the river St. Lawrence from those falling into the Atlantic Ocean, along which Highlands is to be drawn the line of Boundary from that angle to the north-west head of the Connecticut river :

Considering,—

That the high parties concerned respectively claim this line of Boundary, the one to the south and the other to the north of the River St. John, and have each marked upon the map (A.) the line which they demand :

Considering,—

That according to the instances which are adduced, the term Highlands is applied not only to a hilly or elevated country, but likewise to a tract of land which, without being hilly, divides waters flowing in different directions, and that thus the more or less hilly and elevated character of the country, across which are drawn the two lines respectively claimed to the north and to the south of the River St. John, could not form the ground of a choice between them :

That the text of the second Article of the Treaty of Peace of 1783 repeats in part the expressions which were previously employed in the Proclamation of 1763, and in the Quebec Act of 1774, to denote the Southern Limits of the Government of Quebec, commencing from Lake Champlain, "in forty-five degrees of north latitude along the Highlands which "divide the rivers that empty themselves into the River St. Lawrence from those which fall "into the sea, and also along the north coast of the Bay des Chaleurs."

That in 1763, 1765, 1773, and 1782, it was laid down that Nova Scotia should be bounded to the north, as far as the western extremity of the Bay of Chaleurs, by the southern Boundary of the Province of Quebec ; that this definition of Boundary is found again for the Province of Quebec in the commission of the Governor General of Quebec of 1786, in which the terms of the Proclamation of 1763, and of the Quebec Act of 1774, are employed ; and for the Province of New Brunswick, in the commissions of the Governors of that Province of 1786, and of a later period, as also in a great number of maps antecedent and subsequent to the Treaty of 1783, and that the first Article of the said Treaty recites by name the States, of which the independence is recognized :

But that this mention thereof does not imply that the Boundaries between the two Powers, which were settled by the succeeding Article, entirely coincide with the ancient definition of Boundary of the English Provinces, the maintenance of which is not mentioned in the Treaty of 1783, and which, by its continual variations, and by the uncertainty which continued to exist with respect to it, gave rise from time to time to differences between the Provincial authorities :

That the line drawn by the Treaty of 1783 across the Great Lakes to the west of the River St. Lawrence, produces a deviation from the ancient Provincial charters in regard to Boundaries :

That it would be vain to attempt to explain why, if it were intended to maintain the ancient Provincial Boundary, Mitchell's map, which was published in 1755, and which was therefore antecedent to the Proclamation of 1763, and to the Quebec Act of 1774, should exactly have been chosen for use in the negotiation of 1783 :

That Great Britain, in the first instance, proposed the River Piscataqua for the eastern Boundary of the United States, and subsequently did not accept the proposition for the postponement of the fixing of the Boundary of Maine, or of Massachusset's Bay to a later period :

That the Treaty of Ghent stipulated a new Survey on the spot, which could not apply to a Boundary recorded in history, or defined by internal administration ; and that, consequently, neither does the ancient definition of Boundary of the English Provinces offer a ground of decision :

That the longitude of the north-west angle of Nova Scotia, which is to coincide with that of the source of the River St. Croix, was only settled by the Declaration of 1798, which designated which was that river :

That the Treaty of Amity, Commerce and Navigation of 1794 mentions the doubt which had arisen with regard to the River St. Croix ; and that the first instructions of the Congress at the time of the negotiations which produced the Treaty of 1783, place the said angle at the source of the River St. John :

That the latitude of this angle, according to Mitchell's map, which is allowed to have directed the joint and official labours of the negotiators of the Treaty of 1783, is to be found on the banks of the St. Lawrence ; whereas, according to the Boundary of the Government of Quebec, it ought to be sought for at the Highlands, dividing the rivers which empty themselves into the River St. Lawrence from those falling into the sea :

That the nature of the tract of country to the east of the angle referred to, not having been described in the Treaty of 1783, no argument can thence be drawn for laying it down in one place rather than in another :

That, besides, if it were thought necessary to bring it nearer to the source of the River St. Croix, and to look for it, for instance, at Mars Hill, it would be by so much the more possible that the Boundary of New Brunswick, drawn from thence to the north-east, would give to that Province several north-west angles, situate more to the north and to the east, according to their greater distance from Mars Hill, since the number of degrees of the angle mentioned in the Treaty has been passed over in silence :

That, consequently, the north-west angle of Nova Scotia, which is here in question, having been unknown in 1783, and the Treaty of Ghent having declared it to be still unascertained, the mention of this angle in the Treaty of 1783, as a known point, is to be considered as an assumption of a fact which does not afford any ground for decision ; whilst, if it be considered as a topographical point, with reference to the definition, viz. "that angle which is formed by a line drawn due north from the source of the St. Croix River to the Highlands," it merely forms the extreme point of the line "along the said Highlands, which divide those rivers which empty themselves into the River St. Lawrence from those which fall into the Atlantic," an extreme point, which the mention of the north-west angle of Nova Scotia does not contribute to establish, since that angle being itself to be found, cannot lead to the discovery of the line which it terminates :

Finally, that the arguments drawn from the exercise of the rights of Sovereignty over the Fief of Madawaska, and over the Madawaska Settlement, even admitting that exercise to be sufficiently proved, cannot decide the question, because those two establishments comprise only a portion of the territory in dispute ; because the High Parties concerned have recognized the country situate between the lines respectively claimed by them as constituting an object of controversy ; and because in this view possession cannot be considered as detracting from right ; and because, if the ancient Boundary line of the Provinces adduced in favour of the line claimed to the north of the River St. John, and especially that mentioned in the Proclamation of 1763, and in the Quebec Act of 1774, be set aside, there cannot be admitted, in support of the line claimed to the south of the River St. John, arguments tending to prove that such or such portion of the disputed territory belongs to Canada or to New Brunswick :

Considering,—

That the question, stripped of the inconclusive arguments derived from the more or less hilly character of the tract of country, from the ancient Boundary line of the Provinces, from the north-west angle of Nova Scotia, and from the state of possession, is reduced at last to these questions, Which is the line drawn due north from the source of the River St. Croix, and which is the tract of country, no matter whether it be hilly and elevated or not, which, from that line to the north-west head of the Connecticut River, divides the rivers emptying themselves into the River St. Lawrence, from those which fall into the Atlantic Ocean ; that the High Parties concerned are only agreed as to the circumstance that the Boundary to be found is to be settled by some such line and by some such tract of country ; that they have further agreed, since the Declaration of 1798, as to the answer to be given to the first question, except with regard to the latitude at which the line drawn due north from the source of the River St. Croix is to terminate ; that this latitude coincides with the extremity of the tract of country which, from that line to the north-west head of the Connecticut River, divides the rivers emptying themselves into the River St. Lawrence, from those which fall into the Atlantic Ocean, and that, consequently, it only remains to determine which is that tract of country :

That on entering upon this operation, it is found on the one hand,—

First, That if by the adoption of the line claimed to the north of the River St. John, Great Britain could not be deemed to obtain a tract of country of less value than if she had accepted in 1783 the River St. John for a Boundary, regard being had to the situation of the country between the Rivers St. John and St. Croix in the vicinity of the sea, and to the possession of both banks of the River St. John in the latter part of its course ; that compensation would nevertheless be destroyed by the interruption of the communication between Lower Canada and New Brunswick, especially between Quebec and Fredericton, and that the motives would in vain be sought for which could have determined the Court of London to consent to such an interruption :

That, in the second place, if, according to the language usually employed in geography, the generic term of rivers falling into the Atlantic Ocean, could with propriety be applied to the rivers falling into the Bays of Fundy and Chaleurs, as well as to those which discharge themselves directly into the Atlantic Ocean, still it would be hazardous to class under this denomination the Rivers St. John and Ristigouche, which the line claimed to the north of the River St. John divides immediately from the rivers discharging themselves into the St. Lawrence, not in company with other rivers flowing into the Atlantic Ocean, but by themselves alone ; and thus in interpreting a definition of Boundary fixed by Treaty, in which every expression ought to be taken into account, to apply to two cases which are exclusively specific, and which there is no question as to genus, a generic expression which would give to them a wider signification, or which, if extended to the Scondiac Lakes, the Penobscott and the Kennebec which discharge themselves directly into the



## Appendix.

## IV.

Decision of the  
King of the  
Netherlands.

Atlantic Ocean, would establish the principle, that the Treaty of 1783 contemplated Highlands dividing mediately as well as immediately the rivers discharging themselves into the St. Lawrence, from those which fall into the Atlantic Ocean, a principle equally realized by both lines :

Thirdly, that the line claimed to the north of the River St. John does not, except in its latter part, near the sources of the St. John, divide the rivers that empty themselves into the St. Lawrence, immediately from the Rivers St. John and Ristigouche, but only from the rivers which fall into the St. John and Ristigouche; and thus, that the rivers which this line divides from those discharging themselves into the St. Lawrence, require, all of them, in order to reach the Atlantic Ocean, two intermediate aids—the one set at the River St. John and the Bay of Fundy; the other set, the River Ristigouche and the Bay of Chaleurs :

And, on the other hand,—

That it cannot be sufficiently explained how, if the High Contracting Parties intended in 1783 to establish the Boundary to the south of the River St. John, that river, to which the territory in dispute owes in a great degree its distinguishing character, was neutralized and put out of the question :

That the verb “divide” appears to require contiguity in the objects which are to be “divided:”

That the said Boundary forms only at its western extremity the immediate division between the River Mettjarmette and the north-west source of the Penobscott, and only divides mediately the rivers emptying themselves into the River St. Lawrence from the waters of the Kennebec, and of the Penobscott, and from the Scondiac Lakes; whilst the Boundary claimed to the north of the River St. John separates immediately the waters of the Rivers Ristigouche and St. John, and mediately, the Scondiac Lakes, and the waters of the Rivers Penobscott and Kennebec, from the rivers emptying themselves into the River St. Lawrence, that is to say, from the Rivers Beaver, Metis, Rimousky, Trois Pistoles, Green, du Loup, Kamouraska, Ouelle, Bras, St. Nicholas, du Sud, la Famine, and Chaudière :

That even putting the Rivers Ristigouche and St. John out of the question, on the ground that they cannot be considered to fall into the Atlantic Ocean, the north line would still be found as near to the Scondiac Lakes, and to the waters of the Penobscott and of the Kennebec, as the south line would be to the Rivers Beaver, Metis, Rimouski, and others, emptying themselves into the River St. Lawrence, and would, as well as the other line, form a mediate separation between these last-named rivers, and the rivers falling into the Atlantic Ocean :

That the circumstance of the southern Boundary being the first that is met with in drawing a line north from the source of the River St. Croix, could afford that Boundary an incidental advantage over the other, only in case that both Boundaries should comprise in the same degree the qualities required by the Treaties :

And that the manner in which the Connecticut and even the St. Lawrence are disposed of in the Treaty of 1783, does away with the supposition that the two Powers could have intended that the entire course of each river, from its source to its mouth, should fall to the share of either one or other of them :

Considering,—

That, according to what is premised, the arguments adduced on either side, and the documents offered in their support, cannot be considered sufficiently preponderant to decide the preference in favour of either of the two lines respectively claimed by the High Parties concerned, as Boundaries of their possessions, from the source of the River St. Croix to the north-west head of the Connecticut River; and that the nature of the difference, and the vague and insufficiently defined stipulations of the Treaty of 1783, do not allow the adjudication of one or the other of these lines to one of the said parties, without departing from the principles of justice and of equity towards the other :

Considering,—

That the question is reduced, as has been said above, to a choice to be made of a tract of country separating the rivers discharging themselves into the River St. Lawrence from those which fall into the Atlantic Ocean; that the High Parties concerned have come to an understanding with regard to the water-courses, which are marked by common consent upon the map (A.) and which offer the only element of decision; and that, consequently, the circumstances on which this decision depends, cannot be further elucidated by means of topographical researches, nor by the production of new documents :

We are of opinion,—

That it will be proper to adopt for the Boundary of the two States a line drawn due north from the source of the River St. Croix to the point where such line intersects the middle of the bed (*thalweg*) of the River St. John; thence the middle of the bed of that river, ascending it to the point where the River St. Francis empties itself into the St. John; thence the middle of the bed of the River St. Francis, ascending it to the source of its south-westernmost branch, which source we mark on the map (A.) by the letter (X.), authenticated by the signature of our Minister for Foreign Affairs; thence a line drawn due west

to the point where it joins the line claimed by the United States of America, and traced on the map (A.) ; thence that line to the point at which, according to that map, it falls in with that claimed by Great Britain ; and thence the line, marked on the said map by both the two Powers, to the north-westernmost head of the Connecticut River :

With regard to the second point, that is to say, Which is the north-westernmost head of the Connecticut River ?

Considering,—

That, in order to solve this question, a choice is to be made between the river of Connecticut Lake, Perry's Stream, Indian Stream, and Hall's Stream :

Considering,—

That according to the practice adopted in geography, the source and the bed of a river are pointed out by the name of the river affixed to that source and to that bed, and by their greater relative importance compared with other waters communicating with that river :

Considering,—

That in an official letter, so early as 1772, mention is made of the name of Hall's Brook, and in an official letter of a later date in the same year from the same Surveyor, Hall's Brook is described as a little river falling into the Connecticut :

That the river in which Connecticut Lake is found appears to be more considerable than Hall's, Indian, or Perry's Stream ; that Connecticut Lake, and the two lakes situate to the north of the same, appear to give to it a greater volume of water than belongs to the three other rivers ; and that by admitting it to be the bed of the Connecticut, that river is prolonged to a greater extent than if the preference were given to either of the other three rivers :

Finally, that the map (A.) having been recognized in the Convention of 1827 as indicating the course of the waters, the authority of that map appears to extend equally to their names ; seeing that in case of dispute, any name of river or lake respecting which the parties had not been agreed, might have been omitted ; that the said map mentions Connecticut Lake ; and that the name of Connecticut Lake implies the application of the name Connecticut to the river which passes through the said lake :

We are of opinion,—

That the rivulet situate farthest to the north-west of those which flow into the most northern of the three lakes, of which the last bears the name of Connecticut Lake, is to be considered as the north-westernmost head of the Connecticut :

And with regard to the third point, that is to say, Which is the Boundary to be traced from the River Connecticut along the parallel of the 45th degree of north latitude to the River St. Lawrence, called in the Treaties Iroquois or Cataraguy ?

Considering,—

That the High Parties concerned differ in opinion upon the question, Whether the Treaties require a new survey of the whole Line of Boundary from the River Connecticut to the River St. Lawrence, called in the Treaties, Iroquois or Cataraguy, or only the completion of the ancient provincial surveys :

Considering,—

That the fifth Article of the Treaty of Ghent of 1814 does not stipulate that such portion of the Boundaries as has not been surveyed already, shall be surveyed, but declares, that the Boundaries have not been surveyed, and determines that they shall be so :

That in fact that survey from the Connecticut to the River St. Lawrence, called in the Treaties, Iroquois or Cataraguy, is to be considered as not having taken place between the two Powers ; seeing that the ancient survey is found to be inaccurate, and that it had been ordered, not by the two Powers by common agreement, but by the ancient provincial authorities :

That in fixing a latitude, it is usual to follow the principle of observed latitude :

And that the Government of the United States of America has raised certain fortifications at a spot called Rouse's Point, under the persuasion that the ground formed a portion of their territory, a persuasion sufficiently justified by the line reputed up to that time to correspond with the parallel of the 45th degree of north latitude :

We are of opinion,—

That it will be proper to proceed to new operations for the measurement of the observed latitude, in order to trace the Boundary of the Connecticut River along the parallel of the 45th degree of north latitude, to the River St. Lawrence, called in the Treaties, Iroquois or Cataraguy ; in such manner, however, as that in any case, at the spot called Rouse's Point, the territory of the United States of America shall extend to the fort there raised, and shall comprise that fort, and a circle round it of one kilometer radius (*son rayon kilométrique.*)

Thus done, and given under our Royal Seal, at the Hague, this tenth day of January, in the year of our Lord One Thousand Eight Hundred and Thirty-one, and the Eighteenth of our Reign.

(Signed)  
The Minister for Foreign Affairs,  
(Signed)

WILLIAM.  
VERSTOLK DE SOELEN.

Appendix.

IV.

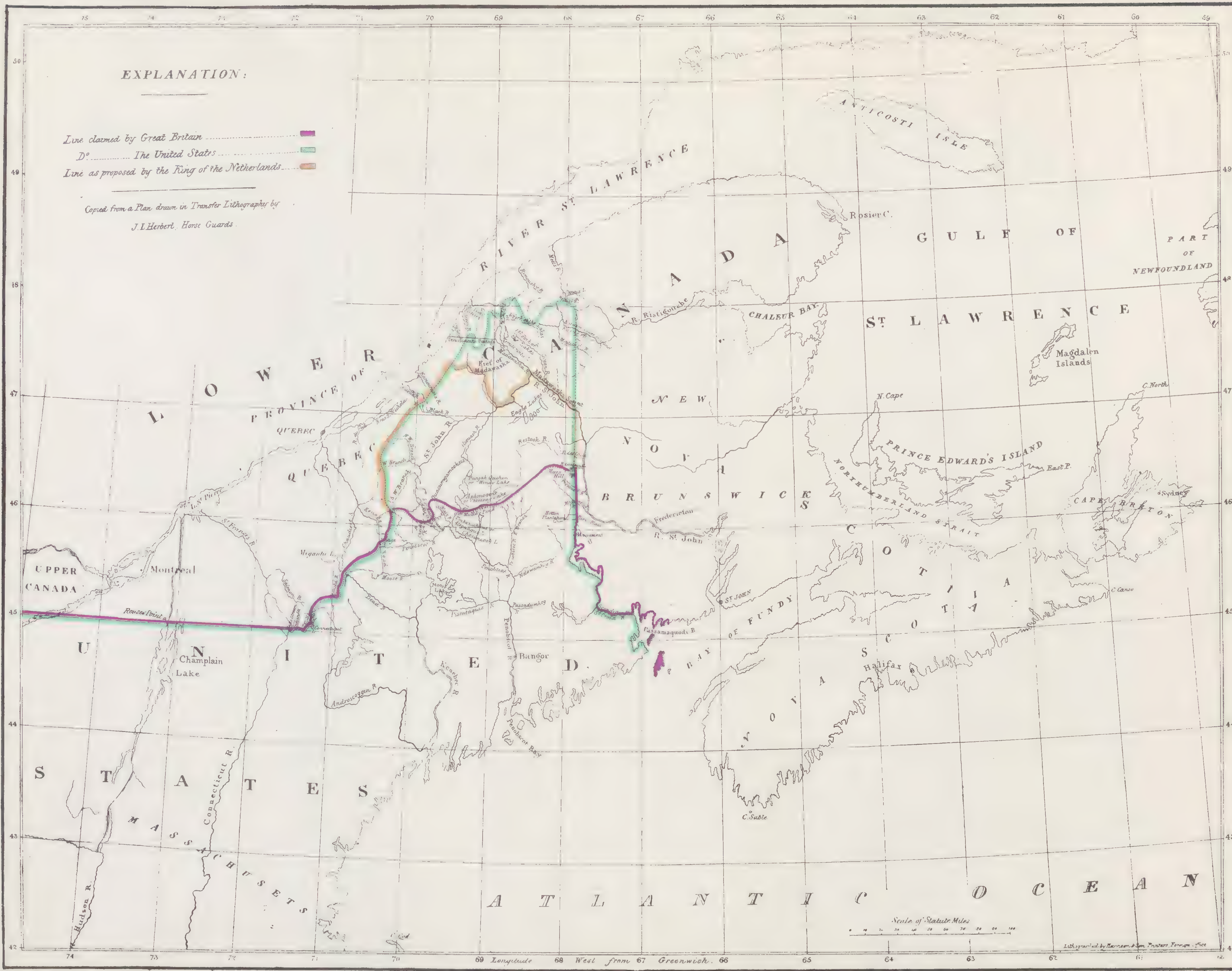
Decision of the  
King of the  
Netherlands.



EXPLANATION:

- Line claimed by Great Britain .....  
D<sup>o</sup> ..... The United States .....  
Line as proposed by the King of the Netherlands .....

Copied from a Plan drawn in Transfer Lithography by  
J.L. Herbert, Horse Guards.



Scale of Statute Miles  
0 10 20 30 40 50 60 70 80 90 100

Lithographed by Harrison, & Son, Printers, Foreign Office

# NORTH AMERICAN BOUNDARY.

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## B.

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PROCEEDINGS AND CORRESPONDENCE

RELATING TO

THE PRETENSIONS OF THE STATES OF  
**MAINE, MASSACHUSETTS**

AND

**NEW HAMPSHIRE,**

AND TO THE QUESTION OF

**JURISDICTION**

WITHIN THE

**DISPUTED TERRITORY**

FROM

1831 to 1837.

---

*Presented to both Houses of Parliament by Command of Her Majesty,  
1838.*

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LONDON:

PRINTED BY J. HARRISON AND SON.



## LIST OF PAPERS.

---

I. Proceedings of the Legislature of the State of Maine, on receiving the Award of the King of the Netherlands.—March, 1831 . . . . .	1
II. Attempt of the authorities of the State of Maine, to exercise jurisdiction within the Disputed Territory.—October, November, 1831 . . . . .	9
III. Further interference of the Agents of the State of Maine and of the State of Massachusetts, within the Disputed Territory.—1833 . . . . .	24
IV. Speech of Mr. Lincoln of Massachusetts, in the House of Representatives, respecting the Boundary of Maine, and debate thereupon.—December 24, 1834 . . . . .	36
V. Report and resolutions in the House of Representatives of the State of Maine on the north-eastern Boundary.—February, 1837 . . . . .	41
VI. Correspondence respecting a projected Railway, between the cities of Quebec and St. Andrews through a portion of the disputed Territory.—1837. . . . .	49
VII. Further attempt of the authorities of the State of Maine, to exercise jurisdiction within the disputed territory.—First Mission of Ebenezer Greely 1837. . . . .	53
VIII. Further attempt of the State of Maine to exercise jurisdiction within the disputed Territory.—Second Mission of Ebenezer Greely.—1837. . . . .	67
IX. Attempt of the authorities of New Hampshire to exercise jurisdiction within the disputed Territory.—1835. . . . .	83
X. Aggression and violation of Territory of Lower Canada, by Citizens of New Hampshire.—1836 . . . . .	93
XI. Correspondence between the Government at Washington and the State of Maine, on the North-eastern Boundary; the Arrest and Imprisonment of Ebenezer Greely; and the projected Railway between Quebec and St. Andrews. Also Correspondence between the Department of State and the British Legation, on the Quebec and St. Andrew's Railway.—1837 . . . . .	144
XII. Correspondence between the State of Maine and the General Government, under a Resolution of the House of Representatives of Maine, passed March 3, 1832. Message of the Governor and Reports and Proceedings of the Legislature of Maine; respecting the North-eastern Boundary, the Arrest of Greely; and Fortifications.—1838 . . . . .	162

## I

Proceedings of the Legislature of the State of Maine, on receiving the communication of the Award of the King of the Netherlands.—  
March, 1831.

To the Senate and House of Representatives,

I HAVE received from the Secretary of State of the United States, under the direction of the President, a copy and translation of the award given by the King of the Netherlands in relation to the north-eastern boundary of the United States, upon the question submitted to him, and also a copy of the protest which the Minister of the United States at the Hague thought it his duty to make against the award referred to, together with extracts from his despatch to the Department of State, shewing the character of the protest, and the ground upon which it was made: and a copy of the correspondence between himself, and Sir Charles Bagot, the Ambassador of Great Britain at the same court, upon the subject.

Copies of these Documents, and also of the accompanying letter of the Secretary of State of the United States, will herewith be laid before you. The President, through the Secretary of State, has expressed his desire, that while this matter is under deliberation, no steps may be taken by the State of Maine, with regard to the disputed territory, which might be calculated to interrupt or embarrass the action of the Executive Board of the Government of the United States upon this subject. The importance of this suggestion will be duly appreciated by the Legislature. And while we adopt such measures as shall be judged proper and expedient to make our rights and claims known to the Government of the United States, it will doubtless be considered that we must, under the provisions of the Federal Constitution, rely with confidence upon that Government for the enforcement of our claims against the power of Great Britain.

(Signed)

SAMUEL E. SMITH.

Council Chamber, March 25, 1831.

1.

Proceedings of  
the Legislature of  
Maine, on the re-  
sult of the Arbitra-  
tion.

*Department of State of the United States.*

*Washington, March 18, 1831.*

To His Excellency Samuel E. Smith, Governor of the State of Maine.

Sir,—By the President's direction, I have the honor to transmit, herewith, to your Excellency, a copy and translation of the award given in relation to the north-eastern boundary of the United States, upon the question which was submitted to the King of the Netherlands, by this Government and that of Great Britain concerning that boundary; which award was officially delivered to the Minister of the United States at the Hague on the 10th day of January last, and by him forwarded to this Department, where it was received on the 16th instant. With a view of making your Excellency acquainted with the state of this transaction, as received here; I also transmit herewith a copy of the protest which the Minister of the United States at the Hague thought it his duty, without instructions to that effect from the President, to address to the Minister of Foreign Affairs of the Government to which he is accredited, against the award referred to;—together with extracts from his despatch to this department, showing the character of his protest, and the ground upon which it was made; and a copy of the correspondence between himself and Sir Charles Bagot, the Ambassador of Great Britain at the same court, upon the subject.

Mr. Preble has asked leave of absence, for the purpose of visiting the United States, which will be forthwith granted, and has expressed an earnest wish that he may be further heard upon the subject, before any measures in regard to it are adopted by the President.

I have the honor, likewise, by direction of the President, to repeat the assurance which I made to your Excellency, in his behalf, in my letter of the 9th instant, that the subject of this award will receive all the attention and consideration to which its great importance, and the interests of the State of Maine, so materially involved therein, especially entitle it, in the Councils of the Executive of the United States; and to add that no time will be lost in communicating to your Excellency, the result of his deliberations upon it, as soon as he shall have determined upon the course which a sense of his high and responsible duties may suggest as proper on the occasion.

Under these circumstances, the President will rely with confidence upon the candour and liberality of your Excellency and the other constituted authorities of Maine, in appre-



## I.

Proceedings of  
the Legislature of  
Maine, on the re-  
sult of the Arbitra-  
tion.

ciating the motives which may influence that course on his part, and in a correspondent interpretation of them to your constituents, in whose patriotism and discretion he has equal confidence.

In making this communication to your Excellency, I am instructed by the President to express his desire that, while the matter is under deliberation, no steps may be taken by the State of Maine, with regard to the disputed territory, which might be calculated to interrupt or embarrass the action of the Executive branch of this Government upon the subject.

I have the honor to be, &c.

(Signed)

M. VAN BUREN.

#### STATE OF MAINE.

THE Joint Select Committee of the Legislature, consisting of four on the part of the Senate, and seven on the part of the House, to whom was referred the Governor's special message of the 25th March, 1831, with accompanying documents, consisting of a copy of the award made by the King of the Netherlands in relation to the north-eastern boundary of the United States, upon the question submitted to him by the Government of the United States and Great Britain; also a copy of the protest which the Minister of the United States at the Hague thought it is duty to make against the award of the King; also extracts from the despatch of the Minister, shewing the character of the protest, and the ground upon which it was made; and also the correspondence between the Minister of the United States, and Sir Charles Bagot, the Ambassador of Great Britain, at the Court of the King aforesaid, upon the same subject; have examined and considered the same message and documents, and

#### REPORT.

The Legislature of this State, having on former occasions, discussed the question of title and jurisdiction of this State to the territory to which they considered the British Government had made an unjust claim, a claim contrary to a fair and impartial interpretation of their own acts and admissions, and also the right of the Government of the United States, under the Constitution, to interfere with the rights of territory and of sovereignty of an independent State, so far as to either, directly or indirectly, cede or transfer any portion thereof to any State, either domestic or foreign; the committee do not deem it important on this occasion, to discuss these subjects further, and content themselves by simply referring to the documents which have proceeded heretofore from the Legislative and Executive Departments of the State Governments.

The documents to which your committee would respectfully solicit the attention of the Government of the United States, are the message of Enoch Lincoln, Esq., Governor of the State of Maine, delivered before both branches of the Legislature in January, 1827; the subsequent report of the committee on so much of the Governor's message as related to the north-eastern boundary; the subsequent correspondence of the Governor with the Secretary of State of the United States; the Governor's Message delivered before both branches of the Legislature in January, 1828; the report of the committee on so much of the Governor's Message as related to the north-eastern boundary; the subsequent acts and doings of the Legislature more especially; the measures adopted by this Legislature, a copy of which has already been forwarded to the President of the United States. The aforesaid documents your committee consider contain the the main facts in support of the title of the State, to soil and sovereignty, as well as some of the grounds of her rights under the Constitution of the United States. An examination of those documents, for any present purpose, will sufficiently indicate, not only the views heretofore entertained by the State, but the course which she will feel it her duty to pursue in furtherance of her rights.

Here it may be proper to remark, that the State authorities have not any disposition to embarrass the Government of the United States, in any of their negotiations with foreign nations, when they pursue the authority given them by the Constitution, and it ought also to be understood that the Legislature of the State, while exercising their powers under the Constitution of the State, and as guardians of the rights and interests of the people, cannot and ought not to compromise the rights of the State by any direct act of their own, or by any acquiescence in the exercise of powers by any other State or sovereignty, contrary to the will of the people as expressed and delegated in their compacts and constitutions. There are rights which a free people cannot yield, and there are encroachments upon such rights which ought to be resisted and prevented, or the people have no assurance for the continuance of their liberties.

We make these remarks without intending any disparagement to the Government of the United States, and also with the entire confidence and conviction, that on a just and careful revisal of the measures that have so far taken place, that there will be found to exist no substantial impediment to giving final effect to the perfect constitutional obligations, to protect and preserve the original and independent rights of the people of this State.

The most important document referred to your committee is the one which emanated from the King of the Netherlands, the Arbitrator, selected by Great Britain and the United States, by virtue of the Convention of September 29, 1827—to decide upon the points of difference which had arisen between the Governments under the fifth article of the Treaty of Ghent. The Legislature have, on a former occasion, briefly expressed their views on the subject of the Convention of 1827—that it did not necessarily and directly violate, but that prospectively, it might produce a violation of their constitutional rights; and it may properly be added, that the question raised by the British, and which was recognized by that Convention, did not grow out of a legitimate interpretation of the Treaty of Ghent,

but was artfully introduced by the British agents, and was incautiously admitted, or not sufficiently opposed and resisted by the agents of the United States. This State has never admitted the authority of the Convention, and cannot consider her rights compromised by any decision under it.

The King, or Sovereign Power of the Netherlands, derived its authority of Arbiter, from the Convention of September 29, 1827. His authority to decide the question submitted is indicated in the first article, which is as follows: "It is agreed that the points of difference which have arisen in the settlement of the Boundary between the American and British dominions, as described in the fifth article of the Treaty of Ghent, shall be referred to some *friendly Sovereign or State*, who shall be invited to investigate, and make a decision upon such points of difference."

The first question which naturally arises in this case, is: Did the Arbiter to whom the points of difference between the Governments was submitted, decide them, or advise the manner of settling them?

From the language used, it seems to have been the intention both of Great Britain and the United States, to submit the decision of the difference which had arisen, not to an individual, but to the Sovereign Power of an Independent State or Kingdom, hence the propriety of the language they used to express their intention, "*some friendly Sovereign or State.*" To fulfil the intention of the parties it was not only necessary that the Sovereign Power selected, should have been at the time of its selection in the full and undisturbed enjoyment of its power, and equally dependent upon, and independent of, the parties, but that the power should have thus continued to the time of its delivering its opinions upon the questions submitted. At the time of the selection of the King of the Netherlands, or the Sovereign to arbitrate and settle the differences, he, and his Government were exercising, and were in the full and uncontrolled possession of the sovereign power of Holland and Belgium, formerly the United Provinces and the Netherlands. Subsequent events, and events, which occurred many months before the subject had been considered, and any sort of decision was made and delivered to the parties, separated Belgium from his dominions and from the sovereign power of his Government. Losing Belgium, deprived the King of nearly three-fifths of his subjects, and of course of three-fifths of his power and consequence, and he ceased to be the King of the Netherlands.

The loss of Belgium arose from the prevalence of liberal opinions and the desire of the people to secure their rights. The revolution from the course the British pursued, naturally produced feelings of attachment to, and dependence upon them for aid and protection, and as naturally excited feelings against the institutions of the United States. But we go still further: the course of events did not simply increase his dependence upon the British, but compelled him to call upon them for assistance to enable him to sustain his power as King even in Holland. The British were, long before the decision, his privy counsellors, if not the managers and regulators of his public concerns and negotiations, upon which the existence and continuance of his power depended. He was within their power and control. Having then lost the character possessed at the time of the selection, the King or Sovereign power of the Netherlands ceased to be the Arbiter to whom the differences had been submitted. A decision after such a change of character and interest cannot, for any purpose, be considered as having any obligatory force or effect, it can be considered only a mere nullity.

The next question which arises is, has the Arbiter decided the points of difference which had arisen between the two Governments?

The Arbiter, in stating the authority of rules of decision, says, "The points submitted ought to be decided according to the Treaties, Acts, and Conventions concluded between the two powers; that is to say, the Treaty of Peace of 1783, the Treaty of Friendship, Commerce and Navigation of 1794, the declaration in relation to the River St. Croix in 1798, the Treaty of Peace, signed at Ghent in 1814, and Mitchell's map and the map A. referred to in the Convention."

The first point the Arbiter was called upon to decide, was, "Which is the place designated in the Treaties as the north-west angle of Nova Scotia, and what are the highlands dividing the rivers emptying themselves into the River St. Lawrence from those which fall into the Atlantic Ocean, along which is to be drawn the line of boundary from that angle to the north-westernmost head of Connecticut River." The United States claimed a range of highlands which limit the streams falling into the River St. Lawrence, and separate them from streams flowing from the same range in all other directions, and through all other channels, falling ultimately into the Atlantic Ocean. The British claimed a range of land, which in a part of its course separated the waters of the St. John from the waters of the Penobscot, and in another part of its course separated only the waters of one tributary of the St. John from another tributary of the same river. These ranges of land were indicated on the map A. according to the claims set up by the parties respectively. The north-west angle of Nova Scotia, according to the claims of both parties, was at the point where a line due north from the source of the River St. Croix intersected the range of highlands, with only this difference, according to the claims of the United States, it would intersect the range, and according to the claims of Great Britain it would touch the eastern extremity of the line, and only intersect if it continued north-westerly.

To avoid any misrepresentation of the meaning of the Arbiter, we will quote from the document. He says, "The arguments adduced on either side, and the documents exhibited in support of them, cannot be considered as sufficiently preponderating to determine any preference in favor of one of the lines respectively claimed by the high interested parties as

# I.

Proceedings of  
the Legislature of  
Maine, on the re-  
sult of the Arbitra-  
tion.



I.  
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 Proceedings of  
 the Legislature of  
 Maine, on the re-  
 sult of the Arbitra-  
 tion.

boundaries of their possessions from the source of the River St. Croix to the northwesternmost head of Connecticut River, and that the nature of the difference, and the vague and not sufficiently determinate stipulations of the Treaty of 1783, do not permit to adjudge either of these lines to one of the said parties, without wounding the principles of law and equity with regard to the other."

And again, "the question results itself into a selection to be made of a *ground dividing* the rivers that empty themselves into the River St. Lawrence from those that fall into the Atlantic Ocean: that the high interested parties are agreed with regard to the courses of the stream delineated by common accord on the map A. and affording the only basis of a decision; and that therefore the circumstances upon which such a decision could not be further elucidated by fresh topographical investigation, nor by the productions of additional documents." Then follows—

"We are of opinion, that it will be *suitable* to adopt as the boundary of the two States, a line drawn due north from the source of the river St. Croix to the point where it intersects the middle of the deepest channel of the river St. John, thence the middle of the deepest channel of that river ascending, &c." This is the language of recommendation or advice to the parties, of the course to be adopted by them, rather than a decision of the point submitted; whether the meaning is to be ascertained from the language used, or from the preceding arguments the conclusion is the same, the Arbiter did not pretend to decide, and declared he could not decide the point in controversy between the parties, but only intended to suggest a mode, by which, in his opinion, it might be decided. The Arbiter seems to have been impressed with the limitation of his powers, and that he had no authority to decide contrary to the question submitted, and that he was bound to decide, if he decided at all, in favor of one, of the two lines claimed by the parties.

If the deductions from the afore-recited arguments of the Arbiter need any further elucidation, it will be found in an examination of the second point submitted to him, and his decision upon it. The second point of difference is, "Which is the north-westernmost head of Connecticut River?"—One party claimed one branch, and the other party another, and after the examination of the evidence and arguments adduced by both parties, the Arbiter, instead of using the same language and form of expression, says, "We are of opinion that the stream situated farthest to the north-west among those which fall into the northernmost of the three lakes, the last of which bears the name of Connecticut, must be considered as the northwesternmost head of Connecticut River." This seems to be, from the arguments which precede, and the language employed by the Arbiter, the only point decided of the three submitted.

The Government of the United States cannot feel themselves bound to adopt or be governed by the advice of the Arbiter, particularly when his advice was not sought or asked by them, and was given at a time when his situation gave him peculiar inducements for favoring Great Britain.

If it were to be considered that the Arbiter had made a decision with an intention of deciding the first point of difference between the parties, the question arises, has the Arbiter decided in pursuance of the authority given him?

The authority under which he acted has been before stated, and here it will be only necessary to repeat, if he has not decided the points of difference which had risen in the settlement of the boundary between the American and British Dominions, as described in the fifth Article of the Treaty of Ghent, according to the Treaties and Conventions appertaining to the same subject, the Government of the United States will have no hesitation in rejecting the decision. If the Arbiter has not performed his duties in good faith, or has violated or transcended the powers given him; it does appear to your committee impossible that the Government of the United States will consider their faith pledged as far as to consider themselves bound by the decision.

It is proper to examine the subject of dispute. The Arbiter in stating the claims made by the parties in relation to the first point in dispute, says, "The high interested parties respectively claim that line of boundary at the *south* and at the *north* of the river St. John, and have each indicated upon the map A. the line which they claim." The line indicated on the map by Great Britain south of the St. John, extended from the sources of that river, and between it and its tributaries, and the Penobscot River and its tributaries in a part of its course, and in the residue of its course between tributaries of the St. Johns to Mars-hill. The line indicated by the United States on the north of the St. John, extending along the ridge of land which limit the sources of the streams which fall into the River St. Lawrence to the point upon that ridge, which terminates a due north line from the source of the River St. Croix. It is very manifest the Arbiter fully understood the respective claim and differences of the parties.

Great Britain and the United States equally contended that the boundary was on the land, a boundary of highlands, which divided waters; they could not have contended for any other, because the Treaty of 1783, describes no other than one on the "highlands which divide the rivers that empty themselves into the River St. Lawrence from those which fall into the Atlantic Ocean, nor did the Proclamation of 1763, the Quebec Act of 1774, the Commissions to the Governors of the Province of Quebec, or the Commissions to the Governors of Nova Scotia or New Brunswick describe any other boundary than a boundary on the land, and as it was ascribed to the Treaty.

From an examination of the Treaty and documents above named, one fact appears clear and manifest: they all divide the streams and rivers into two, and but two classes for any purpose connected with the boundaries, to wit: the river St. Lawrence, and all the



rivers and streams emptying into it from the highlands, which limit their sources, are placed in one class, and in opposition to all other streams or rivers, flowing from the same highlands in other directions, and through all other channels into the sea or Atlantic Ocean; which constitute the other class. Commencing with the proclamation of 1763, the British became particular and gave exact and well-described boundaries to these Provinces, so much so, that it is now difficult to perceive how any general descriptions could be more clear.

The Treaty of 1783, adopted the boundaries of the provinces as they had been at various times clearly and distinctly described by the British.

The question submitted to the Arbiter was not a question of *law* or *equity*, it was barely a question of fact, and he only had authority to decide the fact under the Treaties and the claims which had been set up under them by Great Britain and the United States. His authority was limited to deciding whether the line claimed by Great Britain on the south, or the line claimed by the United States on the north, of the St. John, was the line intended and described in the Treaty of Peace of 1783. The authority of drawing or recommending a new line, however much it was for his interest to do it, or for the interest of the British that it should be done, was not conferred by the Convention.

The Arbiter not having pursued the authority conferred on him by him by the "high interested parties" in his decision, but having drawn a new line, not on the land, but in the beds of rivers in a considerable part of its course, in direct violation of the terms of the Treaties and Convention, and the claims of the respective parties, from which all his authority was derived, it necessarily follows that his decision is null and void, and ought not to be regarded by the United States as having any force or effect.

If the Arbiter had decided in favor of the line claimed by the British on the south of the St. John, there might have been a slight appearance of plausibility in the decision, inasmuch as the boundary would have been on the land, and according to the claim made by one of the parties. But the Arbiter despatched the British claim very briefly, and to use his language "at all events if it were deemed proper to place it (the north-west angle of Nova Scotia) nearer to the source of the river St. Croix, and look for it at Mars-hill, for instance, it would be so much more possible that the boundary of New Brunswick drawn thence *northeastwardly* would give to that province several *north-west* angles, situated further *north* and *east* according to their greater remoteness from Mars-hill." The British probably did not wish the Arbiter to decide in favour of their claim, because if he gave them so much, they no doubt believed the flagrant injustice of the act, would arouse such a state of feeling in the United States as would prevent their holding any part, and that they should not be able to secure to themselves a direct communication between *Fredericton* and *Quebec*.

The Arbiter seems not to have dispatched the claim and argument of the United States with equal facility. He felt the difficulty of reconciling the decision—which circumstances compelled him to make, to the evidence, and wished no doubt to satisfy the United States by giving them Rouse's Point in exchange for two or three millions of acres of land in Maine.

The Arbiter supposes, that, because the line was drawn through the Western Lakes, without a strict regard to the ancient lines of provinces, and because Mitchell's map was used by the negotiators of the Treaty of 1783, upon which the lines of Provinces were not previously drawn, and because Great Britain at first claimed the Piscataqua River as the eastern boundary of the United States, and because the Treaty of Ghent stipulated for a new examination on the spot, which would not be applicable to an *historical* or *administrative* boundary, that the ancient delimitation of the provinces does not afford the basis of a decision." If he had intended to have come fairly and impartially to a conclusion, it is a little difficult to conceive the reason of his having made only a partial selection of the facts, or of his assuming the existence of difficulties which would not have been found in practice.

It does by no means follow that if the negotiators did not intend to adopt the ancient lines of provinces where the lakes formed a boundary, or if the British wished in the early stage of the negotiation to limit the United States to the Piscataqua River, that it was not finally agreed to adopt the ancient lines between the Provinces as the boundary of the United States in that part of it which came within the cognizance of the Arbiter.

From the history of the negotiation of the Treaty of 1783, it appears that the line was drawn through the middle of the lakes as the most certain and convenient boundary in that quarter. That the British did indeed in the first instance propose the Piscataqua River as the eastern boundary of the United States, in the second instance the Kennebec, and in the third instance the Penobscot. The Americans proposed the River St. John as the boundary. Neither proposition was adopted, but if either had been, a new boundary differing from the ancient boundaries of provinces would have been established. The negotiators agreed to adopt, and did adopt, after all their discussions, the ancient boundaries of the provinces as they had long before been established by the British Government between Nova Scotia and Canada on the one hand, and Massachusetts, New Hampshire, Vermont and New York to the River St. Lawrence, on the other. The fact appears from the declaration of a majority of the negotiators, and the language used, which is nearly a transcript of the description of the boundaries of the provinces as established by the British. Of these points the Arbiter was not ignorant, for the evidence of them had appeared in the discussion of the subject of boundary, and no doubt, was in his possession. That the facts derived from documents in relation to the boundary may appear as they exist, we have deemed it proper to collate them as follows.

## I.

Proceedings of  
the Legislature of  
Maine, on the re-  
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Proceedings of the Legislature of Maine, on the result of the Arbitration.

*Boundaries in the Treaty of 1783.*

"From the north-west angle of Nova Scotia, to wit: that angle which is formed by a line drawn due north from the source of the St. Croix River to the highlands, *along the highlands which divide the rivers that empty themselves into the River St. Lawrence* from those which fall into the *Atlantic Ocean* to the northwesternmost head of Connecticut river, thence down along the middle of that river to the forty-fifth degree of north latitude, from thence by a line due west in said latitude, until it strikes the River Iroquois or Cateraguy.

"East by a line to be drawn *along the middle of the River St. Croix, from its mouth in the Bay of Fundy to its source, and from its source directly north to the aforesaid highlands* which divide those rivers that fall into the Atlantic Ocean from those which fall into the River Saint Lawrence."

*Boundaries in the Proclamation of October 7, 1763.*

"The said line crossing the St. Lawrence, and Lake Champlain in forty-five degrees of north latitude *passes along the highlands which divide the rivers that empty themselves into the said St. Lawrence from those which fall into the sea,* and also along the coast of the Bay des Chaleurs and the coast of the gulph of St. Lawrence to Cape Rosieres." The same boundary is found in the commissions to Governors Murray and Carleton, which are dated on November 21, 1763, the other April 21, 1767.

*Boundaries in the Quebec Act, 1774.*

"South by a line from Bay of Chaleurs *along the highlands which divide the rivers that empty themselves into the River St. Lawrence from those which fall into the sea,* to a point in the forty-fifth degree of north latitude on the eastern branch of the River Connecticut, keeping the same latitude directly west through Lake Champlain, until in the same latitude it meets the St. Lawrence."

The same boundary is also found in the commission to Governor Haldimand, dated September 18, 1777. In the commission to Governor Carleton, dated April 22, 1786, is found the following:—

"Bounded on the south by a line from the Bay of Chaleurs, *along the highlands which divide the rivers which empty themselves into the River St. Lawrence, from those which fall into the Atlantic Ocean, to the northwesternmost head of Connecticut River, thence down along the middle of that river to the forty-fifth degree of north latitude, from thence by a line due west on same latitude, until it strikes the River Iroquois or Cateraguy.*"

In the commission to Governor Wilmot, Governor of Nova Scotia, dated November 21, 1763, is found the following boundary:—

"Westward by a line drawn from Cape Sable across the entrance of the Bay of Fundy, to the mouth of the River St. Croix to said river to its source, and by a line drawn *due north, from thence to the southern boundary of our Province of Quebec,* to the northward by the same boundary, as far as the western extremity of the 'Bay des Chaleurs.'"

The same boundary is also found in the commissions to the Governors of Nova Scotia in 1765, 1773, and in the commissions to Governor Parr, dated July 29, 1782, who was the Governor at the time of the Treaty in 1783.

In the commission to Governor Carleton, the first Governor of New Brunswick, dated August 16, 1784, is found the following boundary:—

"Bounded on the westward by the mouth of the River St. Croix, *by the said river to its source, and by a line drawn due north, from thence to the southern boundary of our Province of Quebec to the northward by the said boundary as far as the western extremity of the Bay of Chaleurs.*"

It is not a little difficult to conceive how so plain a language and explicit description of boundary could by any sound and honest mind be so totally misconstrued, and should have

been considered as not affording any basis of a decision in relation to the points submitted. If the facts in relation to Mitchell's map are considered, the conclusion of the Arbiter is not warranted. That a map of North America published while the British and French were contending for empire in North America, from the means furnished by the office of the Board of Trade and Plantations in England, and while also the question, which had arisen under the Treaty of Utrecht, by which the French ceded Nova Scotia or Acadie to the British, as to the limits of Nova Scotia, was unsettled. It was not therefore the policy of the British Government to designate the boundaries of the provinces on her maps, which the compiler very well understood, and therefore the boundaries were not drawn. It is not true as supposed by the Arbiter, that Mitchell's map regulated the boundaries, but the negotiators regulated the boundaries by pencil-marks upon the map, according to their agreement of adopting the boundaries of the province, as they were, and had been established before the Revolution.

Another of the reasons urged as not affording a basis of a decision is, "that the Treaty of Ghent stipulated for a new examination on the spot, which could not be made applicable to an historical or administrative boundary." This, like the other instances, is begging the question. Facts are better than hypothesis. The fifth Article of the Treaty of Ghent provides—"Whereas neither the point of the highlands lying due north from the source of the River St. Croix, and designated in the former Treaty of Peace between the two Powers as the north-west angle of Nova Scotia, nor the north-westernmost head of Connecticut River, has yet been ascertained; and whereas that part of the boundary line between the two Powers which extends from the source of the River St. Croix directly north to the abovementioned north-west angle of Nova Scotia, thence along the said highlands which divide the rivers that empty themselves into the River St. Lawrence from those which fall into the Atlantic Ocean, to the north-westernmost head of Connecticut River, thence down along the middle of that river to the forty-fifth degree of north latitude, thence by a line due west on said latitude, until it strikes the River Iroquois or Cateraguy *has not yet been surveyed.*" If the statement of the Arbiter has any meaning, it appears to us to mean, that inasmuch as the monument had not been erected at the angle, the stipulation of the parties in the Treaty afforded him no means of deciding where the angle should be. This avoids the very object of the Treaty, which was to have the lines surveyed, and the angle marked. If the lines had been surveyed and marked, the parties would have had no occasion for his services. If the plain objects, clearly set forth in the Article, could not furnish to the mind of the Arbiter any basis for a decision, we cannot conceive what could. He has in this, as in other instances, shown more of ingenuity than of soundness of judgment. No surveyor who had a competent knowledge of his business, would with such rules as the Treaties furnish, find any difficulty in ascertaining the lines and the angles. The Arbiter says, the first instructions of Congress, at the time of the negotiations which resulted in the Treaty of 1783, locate the said angle at the source of the River St. John. We are aware that this may be a British argument, but we are not aware that the instructions said any thing about, or had any allusion to, the north-west angle of Nova Scotia. The design of the instructions was to form a new boundary, not conforming to the ancient line of the provinces, but as another and different line was adopted by the Treaty, the instructions have nothing to do with the boundaries. If the St. John had been adopted as the boundary, an inspection of the map shows that Nova Scotia would not have had a north-west, but a south-west angle, if it had retained the territory to the head of the river, on the left bank of it. We are aware the British had made as much as they could of the fact, which had ceased to have any bearing on the question of boundary, after the adoption of the Treaty of 1783. But yet this argument has been adopted by the Arbiter.

He again, in a subsequent part of his argument, recurs to the instructions and says, "that if by adopting the line claimed as the north of the River St. John, Great Britain cannot be considered as obtaining a territory of less value, than if she had accepted in 1783 the River St. John as her frontier, taking into view the situation of the country situated between the River St. John and St. Croix in the vicinity of the sea, and the possession of both banks of the River St. John in the lower part of its course, said equivalent would nevertheless be destroyed by the interruption of the communication between *Lower Canada* and *New Brunswick*, especially between *Quebec* and *Fredericton*; and one would vainly seek to discover what motives could have determined the Court of London to consent to such an interpretation."

We are aware it has been admitted by the British within a few years past, that the country was included within the limits of the Treaty, but they have said they never intended to give it up. The reason of their giving it up by the stipulations in the Treaty of 1783, is a plain one—they had struggled, but in vain, to hold the people of the United States in subjection to their power, and had been compelled to acknowledge their independence, and had failed in limiting the United States to the Piscataqua, or Kennebec, or Penobscot Rivers, and to settle the dispute agreed to adopt the ancient boundaries of the provinces. This being a part of the territory which belonged to one of the States whose independence she acknowledged, she could not in justice withhold from the State any part of it.

The Arbiter has seen fit to introduce a class of geographical and grammatical arguments. These, like other arguments, are not original with him, but are of British manufacture. A full and sufficient answer to all his *immediate* and *mediate* divisions of waters, and his supposition that the verb "divide" requires the contiguity of the objects to be divided, as used

## I.

Proceedings of  
the Legislature of  
Maine, on the re-  
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tion.



I.  
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 Proceedings of  
 the Legislature of  
 Maine, on the re-  
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 tion.

in the Treaty, is the Treaties, the Proclamation of 1763, the Quebec Act of 1774, and all the commissions to the Governors, to divide all the waters connected with the boundary into two and only two classes, to wit: those which flow into the River St. Lawrence, on the one hand, and those which through all other channels by whatever name they may be called, ultimately fall into the sea or Atlantic Ocean, on the other.

It cannot be pretended that the Proclamation of 1763, the Quebec Act of 1774, and the commissions to the Governors of the Province of Quebec, gave to that province, any other or greater territory, from the Bay of Chaleur to the head of Connecticut River, than the territory limited by the range of highlands which limit the waters that flow into the River St. Lawrence. Nor can it be pretended that the commissions to the Governors of Nova Scotia and New Brunswick gave them any territory west of the meridian drawn north from the source of the river St. Croix to the boundary of the province of Quebec, the highlands which limit the tributary streams of the River St. Lawrence.

The leading object of the Arbiter, in all his arguments, appears to have been, to avoid deciding in favour of either line, because if he decided in favour of either, he could find no excuse for deciding against the line claimed by the United States, which he could expect would have even the appearance of plausibility to the world, and thus the chance of securing Great Britain a passage between "Lower Canada and New Brunswick, especially between Quebec and Fredericton," would be for ever lost.

It is with much satisfaction the committee have seen the prompt and able manner in which the minister of the United States at the Hague has met the subject in his protest addressed to the King's Minister of Foreign Affairs, to which protest for the further elucidation of their views, they respectfully ask the attention of the Legislature.

In conclusion, your committee deem it to be their duty to the Legislature and to the State to declare that, in their opinion, in whatever light the document which emanated from the Arbiter may be considered, whether as emanating from an individual, and not from that *friendly Sovereign Power or State* to whom the points in dispute were submitted by the parties, because he had long before the decision ceased to be such Sovereign; or whether it be considered as advice on two of the points submitted, and a decision on the other; or whether it be considered a decision on all the three points submitted; inasmuch as the decision is not warranted by his situation and the authority which was given him, nor a decision of the questions submitted to him by the parties, the United States will not consider themselves bound on any principle whatever to adopt it. And, further, should the United States adopt the document as a decision, it will be in violation of the constitutional rights of the State of Maine, which she cannot yield.

All which is respectfully submitted.

(Signed) JOHN G. DEANE, per order of the Committee.

House of Representatives, March 30th, 1831.

House of Representatives, March 31, 1831.

Read and accepted. Sent up for concurrence,

(Signed) BENJAMIN WHITE, Speaker.

#### STATE OF MAINE.

In Senate, March 31, 1831.

Read and accepted, in concurrence,

(Signed) ROBERT P. DUNLAP, President.

#### STATE OF MAINE.

Resolved in relation to the Report of the Governor's Message, of March 25th, 1831.

Resolved,—That the Governor, with the advice of Council, be, and is hereby requested to transmit a copy of the Report of the Select Committee of the Legislature, on the Governor's message, of the 25th of March, 1831, communicating the advice and opinion of the late King of the Netherlands, who at one period was the Arbiter, to whom was submitted "the points of difference which had arisen in the settlement of the boundary between the American and British Dominions, as described in the fifth article of the Treaty of Ghent," with other documents, with the doings of the Legislators thereon, to the President of the United States, in such way and manner as may be considered to be most for the interest of the State.

Resolved,—That the Governor be, and hereby is, requested to transmit a copy of the report of the select committee of the Legislature on the Governor's message, delivered on the 25th day of March, in the year of our Lord 1831, communicating the advice and opinion of the late King of the Netherlands, who at one period was the Arbiter to whom was submitted, "the points of difference which had arisen in the settlement of the boundary between the American and British Dominions, as described in the fifth article of the Treaty of Ghent," with the other documents and the doings of the Legislature thereon, to the several Governors of the several States composing the United States.

In the House of Representatives, March 31, 1831—Read and passed.

(Signed) BENJ. WHITE, Speaker.

In Senate, March 31, 1831—Read and passed.

ROBERT P. DUNLAP, President.

April 1, 1831—Approved.

(Signed) SAMUEL E. SMITH.

## II.

Attempt of the Authorities of the State of Maine, to exercise Jurisdiction within the Disputed Territory. October and November, 1831.

No. 1.—*Charles Bankhead, Esq. to Viscount Palmerston.*—(Received October 28.)

(Extract.)

*Washington, October 4, 1831.*

ON the 1st instant, I received a despatch from Sir Archibald Campbell, His Majesty's Lieutenant-Governor of New Brunswick, inclosing several documents forwarded to his Excellency by Lieutenant Maclauchlan, who is stationed on the disputed territory, in support of a complaint against the authorities of the State of Maine, for having endeavoured to exercise jurisdiction over part of the above-named territory.

As this proceeding was so much at variance with the spirit of forbearance inculcated by the President in his despatch to the Governor of Maine, at the period of the receipt of the decision of the King of the Netherlands, in this country, and one so likely to produce unfriendly feelings between the respective parties, I lost no time in submitting the complaint of General Campbell to the Government of the United States; and, I trust, that such a communication will be made to the authorities of Maine as shall prevent the recurrence of such irregularities until the period when the question of disputed territory shall be finally settled.

The General Government is most anxious to avoid the slightest collision between the State of Maine and His Majesty's provincial officers; and Mr. Livingston expressed his regret that any occasion had been afforded by the State of Maine to embarrass the harmony and goodwill subsisting between the two countries.

I have the honour to transmit to your Lordship copies of Sir Archibald Campbell's letter and inclosures, and of my note, to the Government of the United States.

I have the honour to be, &c.

*Viscount Palmerston,*  
&c. &c. &c.

(Signed)

CHARLES BANKHEAD.

Inclosure 1 in No. 1.

*Sir A. Campbell to Charles Bankhead, Esq.*

Sir,

*Fredericton, New Brunswick, September 13, 1831.*

I HAVE the honour to inclose, for your information, some documents from Lieut. Maclauchlan, at present in charge of the boundary line between the United States and this province, by which you will perceive that the authorities of the State of Maine have actually taken possession of part of the territory now in dispute between the British and American Governments.

I cannot believe for a moment that these proceedings, so lamentably calculated to interrupt and destroy the peace and harmony existing between the two countries, can be sanctioned or approved of by the American Government; and I am sure you will therefore feel it to be your duty to call at once upon the American Government to put a stop to measures of so dangerous a tendency; measures, which, if persevered in, must infallibly lead to consequences the most prejudicial and injurious to both countries.

I have the honour to be, &c.

*Charles Bankhead, Esq.,*  
&c. &c. &c.

(Signed)

ARCHIBALD CAMPBELL,  
Lieut.-Governor.

Inclosure 2 in No. 1.

NOTICE.

BY a warrant to me, directed from W. D. Williamson, Esq., one of the Justices of the Peace for the county of Penobscot, and State of Maine. This is to notify and warn the inhabitants of the town of Madawaska qualified to vote in town affairs, to assemble at the dwelling-house of Mr. Peter Lizotte, on Saturday the 20th August, 1831, at one of the clock in the afternoon, to act on the following Articles; viz.—

- 1st. To choose a Moderator.
- 2nd. To choose a Clerk of the Town.
- 3d. To choose Select Men.
- 4th. To choose Constables.

(Signed)

WALTER POWERS,  
By order of the said Justice.

Madawaska, August 19, 1831

True copy.

(Signed)

J. A. MACLAUHLAN, Warden of the Disputed Territory.



## II.

## STATE OF MAINE.

Attempt of Maine  
to exercise jurisdic-  
tion in the disputed  
Territory.

To Walter Powers, of Madawaska, in said county, greeting.

YOU are hereby required, in the name of the State of Maine, to notify and warn the inhabitants of said Madawaska, qualified to vote in town affairs, to meet at Mr. Peter Lizotte's dwelling-house, in said town, on Saturday the 20th day of August, 1831, then and there to act on the following articles, and to transact such other business as may come before them.

1st. To choose a Moderator.

2nd. To choose a Town Clerk.

3d. To choose Select Men.

4th. To choose Constables, and all other Town Officers.

And you are hereby further required, in the name of the State of Maine, to make a return of this warrant, with your doings therein, at the said meeting, at which you will preside until a moderator be chosen.

Given under my hand and seal at Bangor, in said county, 11th July, 1831.

(Signed) WILLIAM D. WILLIAMSON,  
Justice of the Peace.

True Copy.

(Signed) J. A. MACLAUCHLAN, Warden, &c. Madawaska, August 20, 1831.

The officers as referred to in the above instrument were actually chosen in by American residents in the upper part of the Madawaska settlement, and that the several officers were sworn in to perform the duties required of them.

(Signed) J. A. MACLAUCHLAN.

## STATE OF MAINE.

In council, April 2, 1831.

Present.—The GOVERNOR.

Messrs. LANE.

Messrs. EMERSON.

HOWARD.

COBB.

PRINCE.

SMITH.

JOHNSON.

JOHN E. DEAN of Ellsworth, in the county of Hancock, and Edward Kavanagh, of Newcastle, in the county of Lincoln, Esquires, are, by the Governor, with the advice of the Council, appointed to ascertain the number of persons settled on the public lands north of the line running west from the monument, the manner in which they respectively hold the same, &c. under a resolve of the Legislature, passed March 31, 1831.

By the Governor.

(Signed) ROSCOE E. GREENE,  
Secretary of State.

## STATE OF MAINE.

Resolve,—In relation to persons settled on the public lands without title.

Resolved,—That the Governor, with the advice of the Council, be, and hereby is requested, to appoint some suitable person or persons to ascertain the number of persons settled on the public lands, north of the line running west from the monument, the manner in which they respectively hold the same, and to report all the facts which will be for the interest of the state, to enable them to adopt some mode of quieting the settlers in their possessions.

Resolved,—That the land agent be, and hereby is requested to give specific instructions to the person or persons appointed as aforesaid for their rule and government in fulfilling the requirements of this resolve.

In the House of Representatives, March 30, 1831. Read and passed.

(Signed) BENJAMIN WHITE, Speaker.

In Senate, March 31, 1831. Read and passed.

(Signed) ROBERT P. DUNLAP, President.

March 31, 1831. Approved.

(Signed) SAMUEL E. SMITH.

Inclosure 3 in No. 1.

*Charles Bankhead, Esq. to the Hon. Edward Livingston.*

*Washington, October 1, 1831.*

THE Undersigned, &c., has the honour to acquaint Mr. Livingston, &c. that he has received a communication from His Majesty's Lieutenant-Governor of New Brunswick, stating, that the authorities of Maine have endeavoured to exercise a jurisdiction over part of the territory at present in dispute between His Majesty and the United States, and further that an order has been issued by a justice of the peace for the county of Penobscot to the inhabitants of the town of Madawaska, to assemble for the purpose of choosing municipal officers.

The Undersigned regrets sincerely, that these irregular proceedings should have been had recourse to during the period when the question of boundary is in a course of settlement, and in opposition to the desire expressed by the President, that pending the discussion of that question, the State of Maine should refrain from committing any acts which could be construed into a violation of the neighbouring territory.

The Undersigned begs leave to submit to the Secretary of State, several documents which he has received from Sir Archibald Campbell, in support of his complaint, of a violation of territory, and the Undersigned entertains a confident hope that such measures will be adopted as shall prevent a recurrence of acts on the part of the authorities of the State of Maine, which are productive of so much inconvenience, and which tend to disturb that harmony and goodwill so necessary to be preserved between the two countries.

The Undersigned, &c.

*The Hon. Edward Livingston,*  
&c. &c. &c.

(Signed)

CHARLES BANKHEAD.

II.

Attempt of Maine  
to exercise jurisdiction  
in the disputed  
Territory.

No. 2.—*Charles Bankhead, Esq. to Viscount Palmerston.*—(Received November 21.)

(Extract.)

*Washington, October 21, 1831.*

ON the 19th instant I received from His Majesty's Lieutenant-Governor of New Brunswick, a communication, a copy of which I have the honour to enclose, upon the subject of the disputed territory. His Excellency acquaints me, that in addition to the violation of territory committed by some persons, in attempting to elect municipal Officers in the township of Madawaska, a second and more serious irregularity has since taken place there, in an attempt to choose a Representative for the Legislature of Maine, thereby incorporating the territory in dispute in the county of Penobscot.

This last measure prompted his Excellency to take immediate steps for maintaining the sovereignty of the territory in question, and several of the individuals concerned in the affair were arrested and lodged in the jail of Fredericton.

On the evening of the same day on which the Lieutenant-Governor's despatch reached me, I received a note from the Secretary of State of the United States, a copy of which, together with its enclosure, I have the honour to transmit. This note is an answer to my first representation to the American Government, founded upon a former letter from Sir Archibald Campbell; copies of which correspondence I had the honour to enclose in my despatch of October 4.

I have great satisfaction in acquainting your Lordship, that the language held by the General Government, upon this subject, has been of the most friendly nature, and the determination of the President is again expressed to cause the authorities of Maine to observe the strictest forbearance with reference to the disputed territory, until the question of boundary shall be finally settled between the two countries.

In compliance with the desire manifested by Mr. Livingston, I have addressed a letter to Sir Archibald Campbell, recapitulating the sentiments of the President; and, without presuming to dictate to his Excellency any line of conduct with reference to the exercise of his prerogative, I have ventured to submit to his early consideration the motives which the American Secretary of State brings forward in favour of the release of the persons at present in custody at Fredericton.

I have the honour to submit to your Lordship a copy of my letter to Sir Archibald Campbell, together with a copy of my note to the Secretary of State of the United States, acknowledging his communication. I venture to hope that my conduct upon this occasion will not be disapproved of by His Majesty's Government.

Inclosure 1 in No. 2.

*Sir A. Campbell to Charles Bankhead, Esq.*

(Extract.)

*Fredericton, October 4, 1831.*

SINCE I had the honour of addressing you on the 13th ult., relative to the extraordinary proceedings of certain agents of the State of Maine in that part of the disputed territory called Madawaska, further and more serious aggressions than those therein mentioned have taken place, for the avowed purpose of usurping the sovereignty of a large portion of His Majesty's dominions on "both" sides of the River St. John.

The inclosed documents will clearly shew the alarming extent of these aggressions on our territory by the presumed agents of the neighbouring State; together with the legal measures which we have, in consequence, been compelled to adopt, in order to make the jurisdiction of our laws be respected by all classes throughout this province.

The conduct of the persons now in custody, accused of certain high crimes and misdemeanours, as set forth in the enclosed depositions, verified on oath, will be submitted to the decisions of the Supreme Court of this province in the course of the ensuing week; and I beg to assure you that no time shall be lost in making you acquainted with the result.

In the meantime, I trust to your making such a representation to the General Government of the Republic, as the case may seem to you to require, in order to prevent the mischief which must inevitably arise from any further perseverance on the part of Maine, in a line of conduct lamentably calculated to endanger the best interests of both nations.

I have, &c.

*Charles Bankhead, Esq.*  
&c. &c. &c.

(Signed)

ARCHIBALD CAMPBELL,  
Lieut.-Governor.



## Inclosure 2 in No. 2.

II.

*C. T. Peters, Esq. to Sir A. Campbell.*

Attempt of Maine  
to exercise jurisdic-  
tion in the disputed  
Territory.

May it please your Excellency,

*Madawaska, September 24, 1831.*

BY command of your Excellency, pursuant to a resolution of your Excellency, and His Majesty's Council, I was directed "to proceed to this place, and adopt such legal measures as appear to be expedient and necessary for preventing aggressions, and maintaining the jurisdiction of the Government."

I have the honour to lay before your Excellency copies of statements, under oath, which I have been enabled to collect, of the proceedings of a number of the inhabitants of this settlement, tending to disturb the peace of the place, calculated to estrange the French inhabitants from their allegiance, induce them to acknowledge themselves citizens and subjects of the United States of America, and transfer the possession of this district of the province to that Government, and constituting a high and serious offence against the law, in open contempt of the King and his Government.

The conduct of the persons who have been concerned in these transactions is the more aggravating, as they evidently appear to be the instruments and agents of the State of Maine; with a view entertained by that Government through their instrumentality to obtain possession of the tract of country at present in dispute between Great Britain and the United States, which both those Governments have solemnly pledged themselves by the Convention entered into between them, that nothing shall be done by the one or the other pending the proceedings for settling the dispute which may alter the relative situations of either party.

The proceedings of these persons, aided by the conduct of certain other agents from the Government of Maine, who, by the papers which I now have the honour to lay before your Excellency, will appear to have been secretly passing through the settlement and intermixing with the French inhabitants (of which the great majority consist) has, I regret to say, evidently had an effect of unsettling the minds of a great number, if not almost seduce them from their allegiance to His Majesty's person and Government. And in a recent instance at an illegal meeting, under the denomination of a town meeting, assembled at the instigation of those instruments and agents of the State of Maine, several of those hitherto loyal, though ignorant, persons were prevailed on to join and give their votes for a Representative to the Legislature of that State; they not being aware of the nature of the offence they were induced to commit.

As the object of my being sent here is to adopt measures to prevent further aggression and maintain the jurisdiction of His Majesty's Government, I beg leave to observe that from what has taken place at the two illegal meetings which have recently been holden, and from what I can discover to be the state of the minds of the inhabitants, it becomes a measure of indispensable necessity, if the possession of this part of the country is to be maintained in His Majesty—that all the persons who have been in any manner concerned in these disturbances be immediately prosecuted, and that warrants be issued to apprehend and compel their appearance to answer in court for the very serious offences of which they have been guilty.

*His Excellency Sir A. Campbell,*  
&c. &c. &c.

I have, &c.  
(Signed) CHARLES T. PETERS,  
Attorney-General.

May it please your Excellency,

*Fredericton, October 2, 1831.*

IN addition to the foregoing report made to your Excellency from Madawaska, I have the honour to state for the further information of your Excellency, that immediately thereafter warrants were issued by Mr. Justice Maclauchlan and Mr. Justice Rice, to apprehend the several offenders therein alluded to, and the same were placed in the hands of the High Sheriff of the county, to proceed forthwith to execute the same; but, I regret to add, he was not successful in apprehending more than four of the persons who were principally concerned in originating the disturbances, the others having retired from their different places of residence and secreted themselves in the woods to avoid the arrest.

The names of the persons who have been taken, are

Barnabas Hannawell, the elected moderator—Daniel Savage, one of the select men so called—Jesse Wheelock, the town-clerk—and a person of the name of Daniel Bean, all of whom have been committed to the jail in Fredericton, to answer at the Supreme Court there to be holden the next week, to what may be objected against them. Their commitment became necessary as they refused to give bail for their appearance.

Warrants are still in the hands of officers against those persons who have taken themselves out of the way, and will be continued until such time as they can be arrested.

The Frenchmen who were over persuaded to join them have also been apprehended—but they all gave bail for their appearance at the court, and therefore were not committed.

I have, &c.  
(Signed) CHARLES T. PETERS,  
Attorney-General.

## Inclosure 3 in No. 2.

*Deposition of Peter Lizette.**Madawaska, Parish of Kent, York County.*

## II.

Peter Lizette, of the parish of Kent, in the county of York, Esquire, and captain of militia in the said county, being duly sworn, deposeth and saith, that some time about the 1st August last past, he was visited by an American of the name of John E. Deane, accompanied by a person also an American, named Edward Kavanagh, who stated that he, the said John E. Dean, came into Madawaska for the purpose of taking an account of the number of the inhabitants, and the quantity of the lands occupied by each. That they remained with this deponent two nights and two days; that the said Dean was very particular in making inquiry of this deponent as to his, this deponent's, age, the number in his family, the size of his house, the number of his cattle, the quantity of acres of which his farm consisted; that he, this deponent, observed to the said Dean that he did not understand what he wanted; that he, this deponent, had always been and was a British subject, satisfied and contented with Government; and that it might bring him, this deponent, into difficulty if he complied with his, the said Dean's, request, and desired to know whether he, the said Dean, had any authority for what he was doing; to which the said Dean replied that he had, from the State of Maine, and produced a paper, saying that it was a commission giving him the authority; but he, this deponent, being illiterate and unable to read, was compelled to rely on his, the said Dean's, assertion as to its contents: that when this deponent mentioned his fears of acting wrong and in opposition to his allegiance, the said Dean replied he need be under no apprehension on that subject, as he, this deponent, was now a citizen of the State of Maine: that the said Dean then went on further to say to this deponent, that he, this deponent, would make a good representative for the district of Madawaska to the State of Maine Legislature, and advised this deponent to offer himself and to become one, saying that the deponent as such representative would get three-pence per mile travelling expences going and returning from the Legislature, and ten shillings for each day of his attendance, and twenty shillings for each day he might wait before the Legislature assembled. Whereupon this deponent observed, he had been born, and always heretofore lived, a British subject, and should die such. This reply appeared to disconcert the said Dean, and he walked backward and forward across the room for some time. The said Dean also told this deponent, as well as many others, that if he did not give to him, the said Dean, the number of the acres of his land, when the surveyor from Maine came, which would be before the time of planting the next spring, his name would not be found on the list, and he, this deponent, as well as all others who declined, would lose their lands, and that those who gave an account of their lands would have titles given to them, free of all expences, excepting the sum of five dollars to the Surveyor-General for laying them out, and those who always had grants would have them free of expence, and that all inhabitants who at present were not in possession of lands would have each one hundred acres given to them by the State of Maine, free of expence. That the said Dean and the said Edward Kavanagh both endeavoured to persuade and prevail upon this deponent to become and acknowledge himself as belonging to the State of Maine, and consider himself as a citizen thereof, stating to him that there was no danger of injury to himself, by his, this deponent's, so doing.

(Signed) PETER LIZETTE.

Sworn this 23d day of September, 1831, before me,

CHARLES PETERS.

Also, J. MACLAUCHLAN.

J. RICE.

A True Copy.

(Signed) A. CAMPBELL.

## Inclosure 4 in No. 2.

*Deposition of L. R. Coombes.**Madawaska, Parish of Kent, York County.*

Leonard R. Coombes, of the said parish of Kent, Esquire, maketh oath and saith, that about the middle of August last past, the deponent was informed by a person from the upper part of the settlement, that John Baker had put up a written notification at the house of one Romain Micheau, an inhabitant of the settlement, calling on the inhabitants of Madawaska to assemble on the 20th day of the month, at the house of Peter Lizette, for the purpose of electing town and parish officers as citizens of the State of Maine, under an Act of the Legislature of the said State, authorizing the same. That this deponent being confirmed in the truth of the information from other sources, and having also obtained a copy of the notification which had been put up on the said 20th day of August, proceeded to the house of the said Peter Lizette, to witness what might take place; that the persons assembled at the said meeting consisted of John Baker, Walter Powers, Jesse Wheelock, Daniel Savage, Randal Harford, John Harford, Barnabas Hannawell, Nathaniel Bartlet, Augustin Webster, and Amos Mattocks, all residents and inhabitants of the settlement of Madawaska, and about twenty of the French settlers; also, Francis Rice, Esquire, one of His Majesty's Justices of the Peace, in and for the said county of York, who attended to witness what might take place, which meeting being thus assembled, the before-named Walter Powers, assumed the direction of the proceedings, and stated that he was empowered by a warrant, under the authority of the State of Maine, to call the said meeting

Attempt of Maine  
to exercise jurisdic-  
tion in the disputed  
Territory.



II.  
 Attempt of Maine  
 to exercise jurisdic-  
 tion in the disputed  
 Territory.

The party was adjourned from the house into the open field, (which adjournment was occasioned, as this deponent understood, in consequence of the refusal of the said Peter Lizette to permit the business to proceed in a room in the house), that on assembling in the field, the before-named persons formed themselves about a cart, and the said Walter Powers opened the object of the meeting, and was proceeding to read, or cause to be read, what purported to be an Act of the Legislature of the said State of Maine, incorporating the whole of the Madawaska Settlement; and, as this deponent was given to understand, the whole territory lying to the west of the north line from the monument, to the extent of the American claim up to the highlands, so called. That this deponent viewing the said proceedings as a high-handed illegal step, addressed himself to the said Walter Powers, and demanded from him to see the warrant, under which he pretended to act, and observed to the said Powers, that he would not quietly witness any thing further to be done, unless such authority was produced; that the said Walter Powers, after a consultation with the other persons, by whom he appeared to be supported, to wit, the said persons herein-before named, produced what appeared to this deponent to be an original paper, and purported to be a warrant, under the hand and seal of a person by the name of William D. Williamson, a Justice of the Peace in the said State of Maine, addressed to the said Walter Powers;—that this deponent, on casting his eyes on the said warrant, observed that the names of the said Walter Powers and Peter Lizette, and the date and day of the meeting were in a different hand writing from either the signature or body of the warrant, and was coarse bad writing; on discovering which, the deponent mentioned to the persons standing near, that the blanks must have been filled up after the signature of the said warrant, and in this place, that the said warrant was also read by the said Francis Rice, after which the said Walter Powers read the Act of the Legislature of the State of Maine, which was to the effect as herein-before mentioned; that they, the said persons herein-before named, proceeded to elect and choose certain officers as follows, to wit:—

Constables . . . . .	Randal Harford.
	Barnabas Hannawell.
Moderator . . . . .	Barnabas Hannawell.
Town Clerk . . . . .	Jesse Wheelock.
Select Men . . . . .	Daniel Savage.
	John Harford, senior.
	Amos Mattocks.

The mode of choosing was, by writing the name of the person the elector voted for on a slip of paper, which slips were folded up, placed in a hat, and then taken out and read, and the persons having the greatest number of votes or names was declared by the said Walter Powers to be duly elected.

That so soon as the election was over, the said moderator proceeded to swear in the eldest men, the form of which oath was contained in, and read from a book, and was to the following effect:—You shall well and truly do the duty of honest men, for the town of Madawaska, county of Penobscot, and State of Maine. That the said persons first herein-mentioned, endeavoured to persuade and induce the French inhabitants, then and there present, to join them, and give their votes likewise, which they one and all declined to do; that Paul Jier, one of the French inhabitants, was chosen one of the select men, and Romain Micheau, one of the constables; that both refused to act, and others were chosen in their place.

And this deponent further saith, the Justice Rice and himself both solemnly protested against the proceedings, and warned the parties as to the consequences; and on this, deponent's expostulating with some other persons who had been elected to office, and advising them to have nothing to do with the business; the answer they gave him was, that they were and would be protected by their Government, "under which they acted," Meaning, as the deponent understood, the Government of the State of Maine. The meeting was then dismissed.

(Signed) L. R. COOMBES.

Sworn 24th September, 1831, before CHARLES J. PETERS.

J. MACLAUHLAN, J.P.

*Madawaska, Parish of Kent, County of York.*

Oliver P. Murphy, of the said parish of Kent, yeoman, maketh oath, that he accompanied the within-named Leonard R. Coombes, to the meeting of the persons named in his deposition, to the house of Peter Lizette, to witness what might take place, and that the statement made by the said Leonard R. Coombes, in the within affidavit, of what did take place at the said meeting, is in all respects true.

(Signed) OLIVER P. MURPHY.

Sworn, &c. as above.

A true copy.—(Signed)

A. CAMPBELL.

Inclosure 5 in No. 2.

*Deposition of Francis Rice.*

*Madawaska, Parish of Kent, York County.*

Francis Rice, of Madawaska, in the parish of Kent, in the county of York, Esquire, one of His Majesty's Justices of the Peace, in for the said county, deposeth and saith, that some time previous to the 20th day of August last past, this deponent was informed by one Simon Hebert, Jun., that notices had been put up at two or three different places in the

settlement, calling on the inhabitants to attend a town meeting. This deponent proceeded therefore to make enquiry, and shortly afterwards found one of the notices posted up in the house of one Jean Bte. Joussee, which he the said Joussee stated had been given to him by John Baker, an inhabitant of Madawaska to put up; that this deponent obtained a copy, the substance of which was, calling on the inhabitants of Madawaska, to elect and choose town and parish officers for that district, as part of the county of Penobscot, in the state of Maine, and requesting them to meet for that purpose at the house of Peter Lizette, on the 20th August, and signed by one Walter Powers. That on the day appointed for the said meeting, this deponent viewing the same to be a very high-handed illegal proceeding, attended to witness what might take place, to remonstrate and protest against it, and use his influence to prevent the French inhabitants or any of them from being led astray thereby. That there were collected the following persons, viz.:—John Baker, Walter Powers, Jesse Wheelock, Daniel Savage, Randel Harford, John Harford, Barnabas Hannawell, Nathaniel Bartlet, Augustin Webster, and Amos Mattocks, together with about twenty of the French inhabitants. That Peter Lysette, at whose house the meeting had assembled, requested this deponent's opinion, whether there would be any harm in allowing it to be held in a room in his, the said Lysette's, house; to which this deponent replied, that he, this deponent, as a British subject, would not suffer a thing of the kind in his own house, but that he, Captain Lizette, as master, must judge for himself. That shortly afterwards, the persons collected were adjourned to a field where they assembled around a cart and proceeded to business. That the business was conducted by the said Walter Powers, who after a demand made of him by Captain Leonard Coombes, to know by what authority he the said Powers was acting, stated that he was impowed by a warrant from one William D. Williamson, a Justice of the Peace, for the State of Maine, and eventually produced the same, which appeared to be a warrant under the hand and seal of a person who signed himself William D. Williamson; it was directed to the said Walter Powers, which required the said Walter Powers, in the name of the State of Maine, to call the said meeting, and to make returns of what should be done under it; that after reading the said warrant, this deponent demanded a copy, which at first was refused, but in consequence of this deponent's persevering to insist on having a copy, and declaring he would keep the original if not allowed one, he was permitted to take a copy; that this deponent shortly afterward, considering the proceedings high-handed, illegal and imperfect, protested solemnly against them and left the place, first warning and advising the French inhabitants to have nothing to do with them.

And this deponent further saith, that about the 7th or 8th day of September inst., he was informed that another town meeting was advertised, to be held at the house of one Raphael Martin, in the upper part of the settlement, on the 12th, at which this deponent also attended, where he found assembled about fifty or sixty of the inhabitants, among whom were all the persons here before first named. That shortly after the arrival of this deponent the business of the meeting was opened, the said Barnabas Hannawell presiding as moderator, and the said Jesse Wheelock acting as clerk, who declared the object of the meeting to be, as citizens of the State of Maine, to elect and make choice of a person to represent the town of Madawaska, in the legislature in the State of Maine. That this deponent then and there in the King's name, protested against the proceedings. The moderator, Barnabas Hannawell, then arose and made a speech to the persons assembled, and among other things said, "That their proceedings were a privilege their fathers had dearly bought, and that their descendants would defend it with their blood," or words to that effect; and further, (alluding to this deponent as the King's justice,) "as to any order coming from that quarter I bid it defiance;" after which the meeting was adjourned for one hour, for the purpose, as this deponent understood, of a private consultation between the active leaders, as to the expediency of putting this deponent away, and preventing his longer presence at the election. The business of the meeting was afterwards again proceeded in, and a scene of much irregularity and confusion ensued, and after taking the ballot three different times, it appeared, on the select men counting the number of votes, that Peter Lysette had a majority and was returned; and this deponent saw the return which was prepared and made out to Roscoe E. Green, Secretary of the said State of Maine. That during the adjournment for one hour, John Baker, one of the active conductors of the business came up to this deponent and said, that he was surprised that he, this deponent, should have the assurance to protest against such a high and respectable meeting; and this deponent further saith, that the following are the names of the French settlers present at the said meeting who gave in their votes: Raphael Martin, Jean Baptiste d'Aigle, Joseph Peltier, Joseph Peltier the 2nd, Christopher Martin, Hebert Carron, Pierre Marquis, Joseph Marquis, Thomas Micheau, Joseph Legresse, Elois Legresse, Ferdinand Billet, Baptiste Bouchette, Baptiste Lossée, Lawrence d'Aigle; and the names of the other persons who voted were, John Baker, Walter Powers, Jesse Wheelock, Daniel Savage, Randal Harford, Barnabas Hannawell, Nathaniel Bartlet, Augustin Webster, Amos Matlock, Isaac Youngton, Abraham Chamberlain, John Harford, Jun., Joseph Leeld, ——— Porkes; that the names of the candidates proposed were the said Peter Lizette and John Baker.

That the number of votes for the said Peter Lizette were twenty-one, and for the said John Baker five, that is to say at the third ballot, after which the deponent came away.

(Signed) FRANCIS RICE.

Sworn 22nd September, before CHARLES PETERS,  
and J. A. MACLAUCHLAN, J. P.

II.  
Attempt of Maine  
to exercise jurisdic-  
tion in the disputed  
Territory.



## II.

Attempt of Maine  
to exercise jurisdic-  
tion in the disputed  
Territory.

*Deposition of Michael Tighe.*

*Madawaska, Parish of Kent, York County.*

Michael Tighe, of the parish of Kent, in the county of York, yeoman, maketh oath and saith, that he went with and attended Francis Rice, Esquire, named in the foregoing affidavit, to the meetings of which he has spoken in the said affidavit, and that he witnessed and particularly observed all that took place, and all the several facts which, in the said affidavit, are stated by the said Francis Rice to have taken place, are correct and true; and this deponent further saith that, during the said adjournment of the second meeting for an hour, he overheard a conversation between the said Barnabas Hannawell, the moderator, and several of the active partizans, in which it was proposed, that the said Francis Rice should be turned out of the meeting, and which this deponent from what he did hear, considered resolved on, and he has reason to believe the resolution was not persevered in and carried into effect, in consequence of Raphael Martin, the landlord of the house, refusing his consent thereto.

(Signed) MICH. TIGHE.

Sworn this 24th day of September, 1831, before Charles T. Peters.

J. A. MACLAUCHLAN, J. P.

True Copy. (Signed) A. CAMPBELL.

Inclosure 6 in No. 2.

*The Hon. Edward Livingston to Charles Bankhead, Esq.*

Sir,

*Department of State, Washington, October 17, 1831*

IMMEDIATELY after receiving your note of the 1st instant, I wrote to the Governor of the State of Maine for information on the subject of it. I have just received his answer of which I have the honour to inclose two extracts. By the first you will perceive that the election of town officers in the settlement of Madawaska, of which complaint was made, in the papers inclosed in your letter, were made under colour of a general law, which was not intended by either the executive or legislative authority of that State to be executed in that settlement, and that the whole was the work of inconsiderate individuals.

By the second extract it will appear that the individuals said to have been most prominent in setting up the authority of the State, have been arrested by order of the Lieutenant-Governor of the Province of New Brunswick, and were on their way to be imprisoned at Frederickton.

The innovation on the existing state of things in the disputed territory being distinctly disavowed by the executive authority of the State, no act of authority or exercise of jurisdiction having followed the election, I would respectfully suggest the propriety of your recommending to the Lieutenant-Governor of New Brunswick the release of the prisoners who were arrested for exercising this act of authority in the territory mutually claimed by the two nations, contrary to the understanding between their Governments. It is their avowed object to avoid any collision, until the intention of both parties in relation to the award, shall be fully known. All subjects calculated to produce irritation, therefore, ought evidently to be avoided. The arrest of the persons concerned in the election must produce that feeling in a high degree; a conviction cannot take place without eliciting a decision from the bench, declaratory of, and enforcing, the jurisdiction over the territory in dispute, which it is the present policy of both powers to avoid, at least for the short time that must elapse before the question can be finally settled. If punishment should follow conviction, the passions that would be excited must inevitably be hostile to that spirit of conciliation, so necessary where sacrifices of national feeling and individual interest are required for the common good. It would be absurd here to enter into the question of title; both parties claim it; no act that either can do, is necessary to assert its right, while there is hope of an amicable arrangement; and it was with this view of the subject that a mutual understanding has been had, to leave things in the state in which they are until the question of the award is settled.

On the part of the Americans, some individuals in contravention of this understanding, have proceeded to do acts which, if followed out, would change the political state of part of the disputed land; but it has not been so followed out, it is disavowed by the powers whose assent is necessary to carry it into execution. It is therefore of no avail, and can have no more effect than if the same number of men had met at Madawaska, and declared themselves duly elected members of the British Parliament. The Act interferes with no right, it comes in actual collision with no established power—not so the punishment of the individuals concerned. This is at once a practical decision of the question, may lead to retaliatory legal measures, or what is worse, to illegal violence; for if the Lieutenant-Governor of New Brunswick feels himself obliged, as he says he does, to enforce the authority of the laws within what he thinks the boundaries of his province, will not the same feeling excite the Governor of Maine, under the same sense of duty, to pursue the like measures? And thus the fruits of moderation and mutual forbearance during so long a period, will be lost for the want of a perseverance in them, for the short time that is now wanting to bring the controversy to an amicable close. It is therefore, Sir, that I invite your interposition with His Excellency the Lieutenant-Governor of New Brunswick to induce him to set at liberty the persons arrested, on their engagement to make no change in the state of things until the business shall be finally decided between the two Governments. On our part, the desire of the General Government to avoid any measures tending to a change in the existing state of things on our north-eastern boundary has been fully, and, as it is believed, efficaciously

expressed to the executive of the State of Maine, so that the actual relation of the State with the neighbouring Province, will not, in future, suffer any change.

II.

Charles Bankhead, Esq.  
&c. &c. &c.

I have the honour, &c.

(Signed)

EDW. LIVINGSTON.

Attempt of Maine  
to exercise jurisdic-  
tion in the disputed  
Territory.

Sub-Inclosure.

(Extract.)

Portland, October 12, 1831.

AN Act was passed by the Legislature of this State at their last Session, to incorporate the town of Madawaska, which is bounded in part by the line of the State. By this act and by some others I considered that it was intended by the Legislature to assert the claim of this State to jurisdiction over that portion of territory which they knew to be within the limits of Maine, and that it was not to be carried into effect until circumstances should render it proper and expedient. The measure that is said to have been adopted by the inhabitants of that territory of *voluntarily* organizing themselves into a corporation, was unexpected by me, and done without my knowledge. The only information received at this department in relation to this last mentioned transaction, is contained in a letter purporting to be signed by Jesse Wheelock and Daniel Savage, who are personally unknown to me, but as their statement is also corroborated by a letter from a gentleman at Houlton, it is believed to be substantially correct.

(Second Extract.)

A copy of this letter from Messrs. Wheelock and Savage is herewith transmitted by which it further appears that they, together with several other citizens of this State, have been arrested by the British authorities, and transported towards Fredericton for the purpose of being there imprisoned. They were arrested within the territory of this State and of the United States, and as citizens of the United States now claim the aid and protection of their Government and country.

Inclosure 7 in No. 2.

Charles Bankhead Esq. to Sir A. Campbell.

Sir,

Washington, October 20, 1831.

I HAD yesterday the honour of receiving your Excellency's letter of the 4th instant, inclosing certain documents in reference to a transaction which has occurred in the disputed territory, and which has therein placed your Excellency under the necessity of enforcing the jurisdiction of His Majesty.

Upon the receipt of your Excellency's letter of the 13th September, I lost no time in laying before the Secretary of State of the United States, the representation which your Excellency made of a gross violation of territory committed on the part of certain persons in choosing municipal officers in the township of Madawaska, and thus annexing the territory to the State of Maine, in contravention of the agreement entered into between Great Britain and the United States, that the state of things should remain as they are, until the two powers should declare their opinion upon the decision of the King of the Netherlands.

I received last night a note from the Secretary of State, of which I beg leave to inclose to your Excellency a copy.

It affords me great pleasure to be enabled thus to assure your Excellency of the friendly and conciliatory spirit which pervades this communication, and of the desire manifested by the President of the United States, that all interruption to the harmony which has subsisted upon the frontier, since the reference to the King of the Netherlands, until the present transaction, should now be carefully avoided.

In this spirit, and under the conviction that your Excellency entertains one of a similar nature, I beg leave to submit the note of the American Secretary of State to your early and serious consideration.

It would be presumptuous in me to dictate any line of conduct to your Excellency upon this occasion; but I trust that I shall be pardoned when I remark, that if all other considerations connected with the arrest of these persons, for the violation of territory, could, in your Excellency's opinion, permit the exercise of prerogative in their favour, the sentiments of goodwill which abound in the American Secretary of State's note, the discountenance which is given to all the acts of these persons, and the absolute condition that is offered for their release, of not offending on any future occasion; the fulfilment of the request made by Mr. Livingston for their liberation would be viewed by the President and the general Government of this country as a signal proof of your Excellency's desire to calm all animosities, and thus to induce the inhabitants of the neighbouring State to preserve a spirit of forbearance towards His Majesty's dominion, until the question of boundary shall be set at rest.

I have, &c.

Sir A. Campbell,  
&c. &c. &c.

(Signed)

CHARLES BANKHEAD.



## Inclosure 8 in No. 2.

*Charles Bankhead to the Hon. Edward Livingston.**Washington, October 20, 1831.*

11.

Attempt of Maine  
to exercise jurisdic-  
tion in the disputed  
Territory.

THE Undersigned, &c. has the honour to acknowledge the receipt of Mr. Livingston's note of the 19th instant, in answer to a representation which the Undersigned thought it his duty to make to the Government of the United States, upon a violation committed upon the territory at present in dispute between the two countries.

The friendly tone assumed by the Secretary of State in this communication—the discountenance, on the part of the General Government of the proceedings which were complained of—and the determination of the President to cause the strictest forbearance to be maintained, until the question of boundary shall be settled, have been received by the Undersigned with great satisfaction; and it is in the same spirit of harmony that he has addressed a letter to His Majesty's Lieutenant-Governor of New Brunswick, enclosing a copy of Mr. Livingston's note, for His Excellency's serious consideration.

The Undersigned, &amp;c.

*The Hon. Edward Livingston,*  
&c. &c. &c.

(Signed) CHARLES BANKHEAD.

No. 3.—*Charles Bankhead, Esq. to Viscount Palmerston.*—(Received Nov. 28.)

My Lord,

*Washington, October 28, 1831.*

ON the 19th instant I received a communication from His Majesty's Lieutenant-Governor of New Brunswick, complaining of an inroad which was made into the territory of His Majesty by a party of men from Houlton in the State of Maine.

It appears that in consequence of a quarrel which took place upon the military road now forming between Bangor and Houlton, an Irishman was apprehended and committed to jail, as one of the most refractory of the combatants. His brother, who lived at Woodstock in New Brunswick, went, without delay, across the lines to Houlton, for the purpose of procuring his release. His application proved ineffectual; and, in a paroxysm of rage and revenge, he fired a musket, loaded with slugs, into the room where the magistrates were sitting, but, fortunately, without effect. He then fled. The next night a party of thirty men came from Houlton, in Maine, to Woodstock, broke into a person's house in which it was supposed this Irishman was concealed, conducted themselves in a riotous manner, and declared their intention of seeking the miscreant, and of taking him over the lines for the purpose of inflicting a punishment merited by his brutal assault upon the magistrates.

Sir Archibald Campbell expresses his abhorrence at the crime, and declares his willingness to punish the offender with the utmost rigour of the law; but he protests against the conduct of the persons who forcibly endeavoured to interfere with the jurisdiction of His Majesty's courts, in the manner I have above related.

I have the honour to transmit to your Lordship copies of Sir Archibald Campbell's letter and its inclosure, together with a copy of a note which I addressed to the Secretary of State of the United States thereupon.

I have the honour to be, &amp;c.

*Viscount Palmerston,*  
&c. &c. &c.

(Signed) CHARLES BANKHEAD.

## Inclosure 1 in No. 3.

*Sir A. Campbell to Charles Bankhead, Esq.*

Sir,

*Fredericton, October 3, 1831.*

I REGRET the necessity I am under of bringing to your notice a most unwarrantable inroad on the territory of this province, by an American party from Houlton Town, as set forth in the inclosed deposition, in search of an Irishman residing in the parish of Woodstock. The cause of this proceeding arose, I believe, as follows.

A brother of the said Irishman had, it appears, been working on the new line of military road from Bangor to Houlton, when a serious fray took place between the Irish and Americans employed on the road, in consequence of which this person, probably with others, was committed to jail. The brother, our subject, went to Houlton in the hope of procuring his release, in failure of which he most atrociously, from motives of revenge, discharged a fowling-piece or musket, loaded with slugs, into the room where the magistrate of the place was sitting, happily without effect, though no doubt intending to destroy him.

The villain who was guilty of this deed of atrocity has fled the country. His conduct cannot be too strongly reprobated, and no punishment would be too great for his offence. Still I am certain that you will agree with me in thinking that no act of this, or any other, miscreant, could, under any circumstances, justify the American Authorities in the violation of our territories, and attempted interference with the jurisdiction of our laws.

I have, &amp;c.

*Charles Bankhead, Esq*  
&c. &c. &c.

(Signed)

ARCHIBALD CAMPBELL,  
Lieut.-Governor.

## Inclosure 2 in No. 3.

*Deposition of James McGee.**York, New Brunswick.*

PERSONALLY appeared on the 24th day of September, 1831, before me, John Bedell, Esquire, one of His Majesty's Justices of the Peace, for the county of York aforesaid, James M'Gee, of the parish of Woodstock, in the aforesaid county of York, who, being duly sworn upon the holy evangelists of Almighty God, deposeth and saith, that on Friday night, the 16th of this instant, September, about eleven or twelve o'clock at night, a number of armed men from the settlement of Houlton, in the State of Maine, and in the United States of America, came to his, the deponent's house, and knocked at the door, when he asked what they wanted, the answer was, they wanted Campbell; he told them, at their peril and in the King's name not to attempt to come in, upon which they damned him and the King, and immediately proceeded to breaking the door, when they rushed into the room, to the number of fifteen or sixteen men (a number more being around the house) when they immediately begun searching the house, breaking up every thing that would conceal a man, using threats to shoot any man that should make resistance; he, the deponent, then desired they would not break up and destroy the room, saying, that if they would desist he would give them a bond for fifty pounds as security, that Campbell should be next day given up to the magistrates of the county, that if guilty of any crime he might be punished, but to this they paid no regard. His daughter, a young woman about nineteen years of age, at the same time being, through fright, thrown into fits, and they refused to let him send for a neighbour for assistance; the mother likewise, from fright and ill usage she received from the party, being unable to render her daughter any assistance.

Four of the party, viz.: Elwyn Packwood, John Tinny, John Bassford, William Jones, the three former being peace officers, were known to be of the number.

(Signed) JAMES MCGEE.

William Gray and Hugh Russel, being likewise duly sworn, deposed to all the facts above stated, they being present in the house.

(Signed) WILLIAM GRAY.  
HUGH RUSSEL.

JOHN BEDELL, Justice of the Peace.

True copy.—(Signed) ARCHIBALD CAMPBELL.

## Inclosure 3 in No. 3.

*Charles Bankhead, Esq. to the Hon. Edward Livingston.**Washington, October 22, 1831.*

THE Undersigned, &c. has the honour to transmit to the Secretary of State of the United States, the copy of a letter from His Majesty's Lieutenant-Governor of New Brunswick, inclosing a deposition made before a Justice of the Peace of that Province, in support of a charge against certain inhabitants of Houlton, in the State of Maine, for having made a forcible inroad on the territory of His Majesty, in search of an Irishman, an inhabitant of Woodstock, New Brunswick, who committed a violent outrage against the constituted authorities at Houlton.

The Lieutenant-Governor deprecates, in the strongest manner, the infamous conduct of the individual in question, and is perfectly ready to exert the utmost rigour of the law against him but, at the same time, his Excellency protests against the conduct of those persons who have thus attempted to interfere with the jurisdiction of the laws in His Majesty's possessions.

Under these circumstances, the Undersigned has to request that Mr. Livingston will be good enough to cause the necessary enquiries to be instituted into this transaction, and upon the charges being clearly proved, that he will make such a representation to the authorities of the State of Maine, as shall prevent the recurrence of a similar irregularity in future.

The Undersigned, &c.

*The Hon. Edward Livingston,*  
&c. &c. &c.

(Signed) CHARLES BANKHEAD.

No. 4.—*Charles Bankhead, Esq. to Viscount Palmerston.*—(Received December 3.)

My Lord,

*Washington, November 5, 1831.*

I HAVE the honour to acquaint your Lordship that Lieutenant-Colonel Snodgrass arrived at Washington the day before yesterday from Fredericton, and delivered to me a despatch from His Majesty's Lieutenant-Governor of New Brunswick, in which his Excellency informs me that the trial of those persons who committed a violation of territory in the township of Madawaska had taken place before the Supreme Court of the Province.

They were sentenced to be imprisoned for two months and to pay a fine of £50. This sentence was pronounced against the prisoners for an offence committed in attempting to choose municipal officers within the disputed territory, an account of which I had the honour of submitting to your Lordship in my despatch of October, 4.

II.

Attempt of Maine  
to exercise jurisdic-  
tion in the disputed  
Territory.



## II.

Attempt of Maine  
to exercise jurisdic-  
tion in the disputed  
Territory.

A second indictment was also presented by the grand jury against the same persons, together with others, for an attempt to elect in the settlement of Madawaska, an individual to represent them in the State Legislature of Maine. This latter trial, however, was not proceeded in, owing to the term having nearly expired.

No doubt is entertained by Sir Archibald Campbell, that these persons are but accessories in a very humble degree in the crime which has brought the punishment of the court upon them, and that the Legislature and municipal officers of the State of Maine, have been throughout the instigators in the attempt to subvert the jurisdiction of His Majesty over the disputed territory. However, I have great pleasure in acquainting your Lordship that the President and General Government of the United States have not only disavowed any participation in this transaction, but great regret has been expressed that the authorities of the State of Maine should have permitted the exercise of any irregularity of the nature complained of. Colonel Snodgrass has been directed by the President to assure Sir Archibald Campbell of his sincere desire to preserve the utmost harmony between the two countries, and their respective neighbouring territories, and his regret that any interruption of that good feeling should have taken place between New Brunswick and the State of Maine.

I have the honour to be, &c.

Viscount Palmerston,  
&c. &c. &c.

(Signed)

CHARLES BANKHEAD.

No. 5.—*Charles Bankhead, Esq. to Viscount Palmerston.*—(Received December 17.)

(Extract.)

*Washington, November 20, 1831.*

I HAVE not yet received any answer from Sir Archibald Campbell to the communication which I thought it right to make to his Excellency, founded upon the wish of the President, and which I had the honour to report to your Lordship in my despatch of October 21. The Government of the United States are very anxious to receive some intelligence from New Brunswick upon the subject of the late disputes upon the north-eastern frontiers, and the proceedings which His Majesty's Lieutenant-Governor thought it necessary to adopt thereupon. The Council of the State of Maine, in their late extraordinary sitting, have forwarded to Washington a report, couched in very strong language, and orders have been given to the different brigades of militia on the frontier to hold themselves in readiness to support the views of the State with reference to the neighbouring province. Notwithstanding this threatening proceeding, I am happy to find that the Governor and Council have decided upon leaving the question with the General Government until the meeting of Congress, at the same time renewing their protest against the decision of the King of the Netherlands, and the power of the President to alienate the territory of the State.

I have the honour to transmit to your Lordship a printed copy of the proceedings of the Governor and Council of the State of Maine at their recent session.

Inclosure in No. 5.

# STATE OF MAINE.

In Council, November 7, 1831.

Present.—The GOVERNOR.

Messrs. LANE.

Messrs. HOWARD.

PRINCE.

COBB.

SMITH.

JOHNSON.

THE Committee of the whole Council to which was referred the subject of the recent transactions at Madawaska, ask leave to report: That, in common with their fellow citizens, they view with feelings of just indignation, the unwarrantable and oppressive acts of the authorities of the British Province of New Brunswick in invading the territory of this State with a military force, and arresting a number of our peaceable citizens, compelling others to conceal themselves in the wilderness, and abandon their homes in order to escape the violence with which they were threatened.

In this violation of the sovereignty of the State, we perceive the continuation of that system of encroachment, which, by our forbearance, the Provincial Government have long been enabled to practice for the purpose of extending their possession, and afterwards relying on that possession as the only foundation of the extraordinary claim they still persevere in making to a considerable portion of the State.

In virtue of a warrant from a Magistrate of the county of Penobscot, the inhabitants of Madawaska, on the 20th day of August last, assembled at a place southward of the St. John River, on this side of the line, designated by the arbiter as in his opinion a suitable boundary between the two Governments, and proceeded peaceably to organize themselves, in pursuance of an Act of the Legislature of Maine incorporating the town of Madawaska.

On the 12th day of September last, they held a town meeting for the purpose of electing a representative, as required by the laws and constitution of this State.

For these acts, four of our citizens have been arrested by the authorities of New Brunswick, carried out of the State, and three of them, Barnabas Hunewell, Daniel Savage, and Jesse Wheelock, are now confined in jail at Fredericton, in execution of a sentence pronounced against them, after the form of a trial in a court of that province.

As these citizens were arrested by a foreign Power, at a place which is claimed and known to be within the limits of this State, and for the exercise of a privilege guaranteed to every citizen, we have no hesitation in coming to the conclusion, that the State is bound to adopt all proper and constitutional means within its power, to procure their release.

It appears by documents in the office of the Secretary of State of this State, that immediately on receiving information of these transactions, the facts were communicated by the Governor to Mr. Livingston, the Secretary of State of the United States, with an urgent request that the proper measures might be adopted by the General Government to procure the release of our citizens and protect our territory from invasion.

To this application, an answer was duly received from Mr. Livingston, under date of 21st October last, stating "the extreme desire of the Executive of the United States to conform with the scrupulous good faith to the arrangement made with the Minister of Great Britain for preserving the state of things as it then existed on both sides, until a final disposition could be made of the question, and it was distinctly understood that no exertion of the State authority in the parts of the disputed territory which were actually held by the British, should interfere with this arrangement." It further appears by the documents communicated, that although the proceedings of the inhabitants of Madawaska were supposed to be a violation of that agreement, yet prompt measures were adopted by the President through the interposition of the Representative of the British Government at Washington, to procure the release of the persons who had taken part in these transactions.

We have caused an examination to be made, but no copy of the arrangement referred to can be found among the archives of the State. And though allusion is made to such an agreement in the correspondence between Mr. Clay, former Secretary of State of the United States, and the late Governor Lincoln, it was at that time asserted to have been violated by the British authorities, and we are satisfied that in numerous instances, it has been totally disregarded by them.

In order to show the views of the General Government with regard to the measures to be adopted by this State, which are now the subject of our consideration, we refer to the following extracts from Mr. Livingston's letter before referred to. "The President desires me to reiterate to you, his anxious desire that you will use your authority and influence to prevent any further collision with the British authorities, in the firm persuasion that the wisdom of Congress will direct such ultimate measures, as will bring the controversy to a close, consistent with the interest and dignity of the United States, and particularly of the States interested in the question. He receives the strongest assurances from the Representative of the British Government, that no innovation will be countenanced on the part of its provincial functionaries; and on our part, good faith as well as the protection of the frontier, from unauthorized mutual inroads, require the same course of conduct."

In a previous letter to the Governor, dated October 5th, Mr. Livingston observes, "the President directs me to say, that he relies on your Excellency's prudence to avoid any unnecessary exertion of authority over the contested ground, and to repress, as far as lies in your power, all such acts as may endanger the quiet of the bordering territory." "Congress will meet in the course of a few weeks, and it will be a source of deep regret if the moderation and forbearance which have hitherto characterized the Government and people of Maine should cease to guide them, when its further continuance for so short a period, is of such consequence to the nation."

After a full consideration of all the facts and circumstances within our knowledge in relation to the subject submitted to us, we are of opinion, that every proper and constitutional measure at present in the power of the Executive of this State, to procure the release of our citizens confined at Fredericton, has been adopted. And if the committee have forbore to recommend more efficacious means for their immediate release, it is because they believe the State is not in possession of the constitutional power to execute them without the concurrence of the General Government.

Believing that Congress, which is soon to meet, will adopt the necessary measures to bring this controversy to a close, consistently with justice, the peace of the nation, and the constitutional rights of the State, which we believe will never be voluntarily surrendered, and from a desire to conform to the wishes of the General Government, we do not deem it expedient, at this time, to recommend measures which might lead to collision with the British authorities.

But, from the exposed situation of our frontier settlements, and the dangers to which they are subjected by encroachments from the neighbouring province, we recommend that the Governor be advised to issue a general order, requiring the militia of the State to hold themselves in readiness to meet such requisitions as the President may deem necessary, to protect our territory from invasion and our citizens from capture.

ISAAC LANE,

Per order in Council, November 7, 1831.

## II.

Attempt of Maine to exercise jurisdiction in the disputed Territory.



II.

Attempt of Maine  
to exercise jurisdic-  
tion in the disputed  
Territory.

This report, on being read, was accepted by the Council, and by the Governor approved.

Attest: R. G. GREENE, Secretary of State.  
A true Copy Attest: R. G. G. Secretary of State.

## STATE OF MAINE.

Head Quarters, Portland, November 8, 1831.

## GENERAL ORDER.

The security and defence of our rights as citizens of a free State, being dependent upon our military establishment, it is not less a duty than the privilege of the citizen soldier to be at all times prepared to repel the invasion of those rights, and afford his aid in the due execution of the laws of his country. The exposed situation of the frontier settlements of this State, and the dangers to which they are subjected by continual encroachments from a foreign Power, having, in the opinion of the Executive Council, rendered it necessary that the militia of the State should be reminded that events might occur which would require their services; the Commander-in-Chief therefore orders, that the several divisions of the militia be in readiness to meet such requisitions as circumstances and the laws of the State may require, and as the President of the United States may deem necessary, for the protection of our citizens and territory.

The Major-Generals will cause this order to be promulgated through their respective districts.

By the Commander-in-Chief,  
SAMUEL G. LADD, Adjutant-General.

No. 6.—*Charles Bankhead, Esq. to Viscount Palmerston.*—(Received December 23.)

My Lord,

Washington, November 28, 1831.

IN my despatch of October 21, I had the honour to transmit to your Lordship copies of a correspondence which took place between His Majesty's Lieutenant-Governor of New Brunswick, the Secretary of State of the United States and myself, respecting the arrest and trial of several persons for an attempt to exercise a jurisdiction on the part of the State of Maine over the territory at present in dispute between Great Britain and the United States.

The President, upon the receipt of this intelligence, having completely disavowed the proceedings of Maine, and at the same time called upon the Governor of that State to discountenance any attempt to exercise jurisdiction over the disputed territory, until the question of boundary, as decided by the King of the Netherlands, should be formally brought before the Senate of the United States, I thought it my duty so far to give effect to the pacific intentions of the President, as to solicit the early attention of Sir Archibald Campbell to the wishes of this Government, with respect to the persons who had been guilty of these irregularities, and who were in jail at Fredericton.

I have great satisfaction in acquainting your Lordship that General Campbell has deemed it proper to exercise his prerogative in favour of the prisoners, and they have accordingly been released from confinement, and their fines have been remitted. I have the honour to transmit to your Lordship copies of the Lieutenant-Governor's letter to me, together with the note which I addressed to the Secretary of State of the United States, and the answer which Mr. Livingston has returned to me thereupon.

I have great pleasure in thus being enabled to communicate to your Lordship the satisfaction which has been evinced by the President of the United States, in consequence of the very conciliatory spirit in which Sir Archibald Campbell has acceded to the wishes of the American Government in this transaction.

I have the honour to be, &c.

Viscount Palmerston,  
&c. &c. &c.

(Signed) CHARLES BANKHEAD.

Inclosure 1 in No. 6.

*Sir A. Campbell to Charles Bankhead, Esq.*

Sir,

Fredericton, November 8, 1831.

I HAD this morning the honour to receive your letter of the 20th ultimo, which with its inclosures are in every respect so satisfactory that I did not lose a moment in giving effect to the wishes therein expressed, by exercising that prerogative so congenial to my own feelings, whether viewed in the extension of mercy, or in the gratifying anticipation of such a measure being received as an earnest of my most anxious desire, as far as rests with me, (consistent with my public duties) to preserve inviolate the harmony and good understanding, so happily existing between the two Governments; the prisoners Barnabas Hannawell, Jesse Wheelock and Daniel Savage are released; and I have taken it upon myself, knowing that such a measure will be fully sanctioned by my Government, to remit the fines imposed by the sentence of the Supreme Court of this Province, as already communicated to you by Lieut.-Colonel Snodgrass: an act that I trust will not fail of being duly appreciated, when

*it is known* that the above-mentioned individuals did, with several others, follow up their first proceedings, by acts of much more serious aggression, for which they stood charged under another (untried) indictment; however, every thing connected therewith is now cancelled.

You will see with what readiness and satisfaction I have received and adopted your kind advice; for which, accept of my sincere thanks.

Charles Bankhead, Esq.  
&c. &c. &c.

(Signed)

I have, &c.

ARCHIBALD CAMPBELL,  
Lieut.-Governor.

II.

Attempt of Maine  
to exercise jurisdic-  
tion in the disputed  
Territory.

Inclosure 2 in No. 6.

*Charles Bankhead, Esq. to the Hon. Edward Livingston.*

*Washington, November 25, 1831.*

THE Undersigned, &c., has the honour to refer the Secretary of State of the United States to the correspondence which took place in the month of October upon the subject of violations which had been committed by certain persons from the State of Maine, upon the territory at present in dispute between Great Britain and the United States, and the measures which His Majesty's Lieut.-Governor of New Brunswick deemed it expedient to adopt thereupon. The trial of these persons took place at Fredericton, and they were sentenced by the Supreme Court of the province to fine and imprisonment.

At the time the Undersigned communicated to the Government of the United States the decision which the authorities of New Brunswick had felt it necessary to adopt upon this occasion, he expressed the deep regret of the Governor of that Province, that the conduct of these individuals was such as to compel His Excellency to pursue a course so uncongenial to his own feelings, and at variance with the harmony which subsists between the Governments of Great Britain and the United States.

The Secretary of State upon receiving this communication, expressed to the Undersigned the earnest desire of the President, upon a total disavowal on the part of the General Government of the proceedings of the persons implicated in this transaction, that His Majesty's Lieutenant-Governor might consider himself authorized to exercise a prerogative in their favour, and to remit the sentence which had been pronounced against them.

No time was lost in submitting Mr. Livingston's note to the consideration of Sir A. Campbell; and the Undersigned has the greatest satisfaction in acquainting him that his Excellency fully acquiesces in the desire manifested by the President of the United States.

The Undersigned cannot better fulfil the wishes of Sir A. Campbell, which are so much in accordance with that spirit of good-will which happily subsists between the two countries and which characterises their relations with each other, than by transmitting to the Secretary of State, a copy of the despatch which he yesterday received from that officer, and which he feels assured will be received by the President as an earnest of his uninterrupted good feeling towards the Government and people of the United States.

The Undersigned, &c.

The Hon. Edward Livingston.  
&c. &c. &c.

(Signed)

CHARLES BANKHEAD.

Inclosure 3 in No. 6.

*The Hon. Edward Livingston to Charles Bankhead, Esq.*

*Department of State, Nov. 28, 1831.*

THE Undersigned, &c., has the honour to acknowledge the receipt of a note from Mr. Bankhead, &c., under date of the 25th inst., accompanied by the copy of a letter from Sir A. Campbell, Lieut.-Governor of New Brunswick, by both of which the Secretary of State is informed that the citizens of the United States, lately under prosecution at Fredericton for acts done in the territory now possessed by Great Britain within the country claimed both by that Power and the United States, have been set at liberty, in accordance with the suggestions made in the former correspondence between Mr. Bankhead and the Secretary of State.

Mr. Bankhead's note with its inclosure have been laid before the President, who has instructed the Undersigned to express his satisfaction at the prompt manner in which his suggestions have been complied with; and to say, that he considers it as a proof of the disposition of His Britannic Majesty's officers to preserve the harmony that so happily subsists between the two Governments.

The Undersigned, &c.

Charles Bankhead, Esq.  
&c. &c. &c.

(Signed)

EDWARD LIVINGSTON.



## III.

## Further interference of the Agents of the State of Maine, and of the State of Massachusetts within the Disputed Territory.—1833.

## III.

Further interference of Agents of Maine and Massachusetts in the disputed Territory.

No. 1.—*Sir C. R. Vaughan to Viscount Palmerston.*—(Received November 21.)

My Lord,

Washington, October 28, 1833.

I HAVE the honour to inclose a copy of a letter, which I received from his Excellency, Sir Archibald Campbell, complaining of the conduct of certain land-agents of the States of Maine and Massachusetts, in the disputed territory, and a copy of the note, which I thought it my duty to present to the Secretary of State of the United States, in consequence of having received that communication.

The answer which I have received to my representation induces me to rely with confidence upon the effectual interposition of the General Government to put an end to the objectionable conduct of the land agents; and I have the honour to inclose a copy of Mr. McLane's note, and of my letter, transmitting it to His Majesty's Lieutenant-Governor of New Brunswick.

I have the honour to be, &c.

*Viscount Palmerston, G.C.B.*

(Signed)

CHAS. R. VAUGHAN.

&c.      &c.      &c.

## Inclosure 1 in No. 1.

*Sir Archibald Campbell to Sir C. R. Vaughan.*

Sir,

Fredericton, New Brunswick, October 3, 1833.

HEREWITH I have the honour to transmit a letter just received from Lieutenant J. A. McLauchlan, warden of the territory in dispute between the British Government and that of the United States, by which it will be seen that an infringement is reported to have been made on the understanding which at present exists between the two countries, by certain land agents of the States of Maine and Massachusetts.

Your Excellency will, I feel assured, take the necessary steps with the General Government to cause an immediate stop to be put to such proceedings, which cannot but prove highly prejudicial to the maintenance of that good feeling now so happily entertained between the respective Governments.

I have the honour, &c.

*Sir C. R. Vaughan.*

(Signed)

ARCHIBALD CAMPBELL.

&c.      &c.      &c.

## Sub-Inclosure in No. 1.

*Mr. MacLauchlan to Sir A. Campbell.*

Sir,

Restook, September 28, 1833.

I FEEL it my duty, as the officer in charge of the territory in dispute between the Government of His Britannic Majesty and that of the United States, to bring, under the early consideration of your Excellency, a subject which I am fearful may shortly lead to a misunderstanding between the two countries.

Since I had the honour of the appointment of warden of this territory I have endeavoured, as much as possible, to prevent trespasses being made by the cutting of pine timber, &c., and which, I am happy to say, has been generally effected, as it is well known there are now large quantities still standing, adjacent to the line from Mars Hill to the Great Falls, which would otherwise have been removed; and the only timber of any consequence that has been manufactured, was on the Restook River by persons settled there, without any intention of making a business of it, but each getting small quantities (and in many instances off land they held in possession) for the maintenance of their families, which were actually in want, owing to the crops of the last two years being destroyed by early frosts.

The subject to which I must now beg the honour to call the attention of your Excellency, is that of an infringement of the understanding between the Governments of Great Britain and the United States, during the settlement of the question of boundary, by the land agents of the States of Massachusetts and Maine, who are not only holding out inducements to the subjects of both countries to cut pine timber on the territory in my charge, by paying them a duty of two shillings and sixpence a ton, but have entered into contracts for opening two roads to intersect the Restook River, one fifty miles from its confluence with the St. John, and the other thirty miles, both of which are either to be completed this fall, or early in the next season.

It is unnecessary, and probably might be considered improper on my part, to advert on the conduct of these agents, but your Excellency must be well aware of the trouble it occasions in the performance of my duty; and certainly there does appear something exceedingly inconsistent that the land agents of these States should attempt to counteract the wishes, nay, I may almost say, the instructions of both Governments, to an officer who has been appointed to prevent collision between them.

I have the honour, &c.

(Signed)

J. A. MACLAUHLAN,  
Warden of the disputed territory.

Sir Archibald Campbell,  
&c. &c. &c.

### III.

Further interference of Agents of Maine and Massachusetts in the disputed Territory.

#### Inclosure 2 in No. 1.

*Sir C. R. Vaughan to the Hon. Louis McLane.*

*Washington, October 20, 1833.*

THE Undersigned, &c. has the honour to lay before the Secretary of State of the United States, a copy of a letter which he has received from his Excellency Sir Archibald Campbell, His Majesty's Lieutenant-Governor of New Brunswick, and to call his attention to the conduct of certain land agents of the States of Maine and Massachusetts, in the territory in dispute between Great Britain and the United States.

It appears by the report contained in Sir Archibald Campbell's letter, that land agents of Maine and Massachusetts, have been holding out inducements to persons of both countries, to cut pine timber on the disputed territory, on condition of paying to them two shillings and sixpence the ton, and that they have entered into contracts for opening two roads, which will intersect the Restook River.

As it is the declared will and mutual interest of the Government of Great Britain and of the United States, to preserve the disputed territory in its present state, and to avoid all collision, pending the settlement of the boundary question, the Undersigned is convinced that it is sufficient to ensure the prompt interference of the Government of the United States to put a stop to the proceedings of these land agents, to state the conduct complained of.

I have the honour, &c.

(Signed)

CHAS. R. VAUGHAN.

The Hon. Louis McLane,  
&c. &c. &c.

#### Inclosure 3 in No. 1.

*The Hon. Louis McLane to Sir C. R. Vaughan.*

*Department of State, Washington, October 23, 1833.*

The Undersigned Secretary of State of the United States, has the honor to acknowledge the receipt of the note of Sir Charles R. Vaughan, &c., of the 20th instant, accompanied by a copy of a letter from Sir Archibald Campbell, Lieutenant Governor of New Brunswick, to Sir Charles R. Vaughan, and also of a letter from J. A. Maclauchlan to the Lieutenant-Governor of New Brunswick, complaining of the "conduct of certain land agents of the States of Maine and Massachusetts in the territory in dispute between the United States and Great Britain."



III.

Further interference of Agents of Maine and Massachusetts in the disputed Territory.

The Undersigned is instructed to state that it would be a source of regret to the President, should this complaint prove to be well-founded; and that he has caused a copy of Sir Charles's note, and of the accompanying papers, promptly to be communicated to the Governors of Maine and Massachusetts, in order that the necessary steps may be taken to enforce a due observance of the terms of the existing arrangement between the Government of the United States and that of Great Britain, in regard to the disputed territory.

The Undersigned, &c.

*Sir C. R. Vaughan.*

(Signed)

LOUIS McLANE.

&c. &c. &c.

Inclosure 4 in No. 1.

*Sir C. R. Vaughan to Sir A. Campbell.*

Sir,

*Washington, October 24, 1833.*

I HAD the honour to receive your Excellency's letter, dated the 3rd October, on the 18th instant, and I immediately stated in a note (a copy of which is inclosed) to the Secretary of State of the United States the objectionable conduct of certain land agents from the States of Massachusetts and Maine in the disputed territory. I have received assurances that the Governors of those States will be called upon to explain the proceedings of those land agents, and I have no doubt from the note which I have received in answer to my representation, and a copy of which I have the honor to inclose, that the President is sincere in his desire to put a stop to conduct, which, if persevered in, must lead to a serious misunderstanding.

The boundary question still awaits the decision of His Majesty's Government about acceding to the proposal made by the American Government, of the nature of which I had the honor to inform your Excellency long since.

I have the honor to be, &c.

*Sir A. Campbell,*

(Signed)

CHAS. R. VAUGHAN.

&c. &c. &c.

No. 2.—*Sir C. R. Vaughan to Viscount Palmerston.*—(Received Jan. 22, 1834.)

(Extract.)

*Washington, December 28, 1833.*

IN my Dispatch of Oct. 28, I had the honor to inclose copies of a representation which I had received from the Lieutenant Governor of New Brunswick, of certain objectionable proceedings of the States of Massachusetts and Maine, in the disputed territory on the frontier of the latter, and a copy of a note which I thought it adviseable, in consequence, to to address to the American Secretary of State.

A second representation of similar proceedings, received from Sir Archibald Campbell, (a copy of which is inclosed) rendered it necessary to address a second note on the subject to this Government on the 17th December, a copy of which is also inclosed; and I have now the honor to transmit to your Lordship, a copy of the answer which I have received from Mr. McLane, a copy of the observations which I thought it right to make upon that answer, when I acknowledged the receipt of it, and also a copy of my Letter to Sir Archibald Campbell, to whom I have forwarded it.

The vexatious proceedings of Maine and Massachusetts, I consider as a renewed attempt to assume, in some shape or other, a futile possession of some part of the disputed territory which has so long remained in abeyance between the two Governments. While the arbitration was pending, and until very lately, the decided expression of the President's desire to repress all such proceedings, had caused a complete suspension of them. The Executive department of the State of Massachusetts, in a letter to the Secretary of State, inclosed in his note of the 21st instant, declares "That the unsettled state of the question of boundary, is daily becoming more and more embarrassing to the exercise of the unquestionable rights of property with us," (Massachusetts). "The most desirable improvements of country are repressed, and the settlement and cultivation of an extensive and valuable territory altogether prevented. A spirit of dissatisfaction and irritation is increasing between the border inhabitants of the State and Province respectively, and there is reason to apprehend, that the Governments of Massachusetts and Maine will find it as difficult to forego much longer jurisdiction over the property, as to deny to their citizens their urgent demand for its occupation and enjoyment."

The Secretary of State, in his note, attributes the acts which have given rise to remonstrance to the unsettled state of the boundary question, and he is convinced that they furnish increased reason for its adjustment. He adds, that the President looks with great solicitude for the answer which is daily expected from the British Government to the proposition submitted on the part of the United States, in the hope that it may soon set all those differences at rest.

I must observe, that in the whole course of the repeated attempts to ascertain the boundary from 1783 to the present time, Great Britain has not shewn the least reluctance

to make any reasonable concession, or to embrace any means which have been offered to terminate the controversy. Great Britain was ready to acquiesce in the line of boundary, manifestly disadvantageous to her interests, which was offered by the King of the Netherlands. The United States rejected it, and I think it my duty, in my communications with this Government, to maintain that the sacrifice of interests then offered, in the true spirit of conciliation, ought not to encourage any expectation that it is the measure of concession to which Great Britain will, after a prolonged negotiation, ever consent.

I wish particularly to call your Lordship's attention to the impatience manifested by Massachusetts in the extract which I have already given from the communication of the Executive of that State to the Secretary of State. I have perfect confidence in the disposition of the President to exert the influence of the General Government to control that impatience. I know that the Secretary of State has endeavoured to impress upon the several Members of Congress from Maine and Massachusetts now assembled here, the necessity of those States abstaining from proceedings which can give rise to remonstrance from the Governor of New Brunswick.

## III.

Further interference of Agents of Maine and Massachusetts in the disputed Territory.

## Inclosure 1 in No. 2.

*Sir A. Campbell to Sir C. R. Vaughan.*

Sir,

*Fredericton, New Brunswick, November 30, 1833.*

I HAVE the honour to transmit to your Excellency another report from the Warden of the disputed territory, which must satisfy the American Government that we have not been deceived with respect to the designs of the Government of Maine upon the country under notice.

It appears unnecessary that I should offer any lengthened observations upon the decisive and menacing measure, which the authorities of Maine have at length unfortunately resorted to, in opening a road beyond the conventional frontier of the two countries, with the avowed intention of carrying it forward to the banks of the St. John.

Your Excellency is aware that the territory thus virtually invaded, although often claimed as American, has never ceased to be under the recognized jurisdiction of Great Britain, and the Provincial Government would be scarcely justified in continuing to look tamely on at this systematic, and unprovoked violation of our rights; but however disposed to carry forbearance to its utmost limit, it will, I fear, be utterly impossible, if this road be persevered in, to prevent collisions of the most serious nature from taking place between the American labourers and the people of New Brunswick.

Under these circumstances it is not difficult to foresee that nothing short of some vigorous exercise of authority on the part of the General Government can save both countries from the evils with which we are threatened, from the reckless endeavours of our neighbours to hurry on a crisis which it has ever been my constant and earnest study to avert.

I have the honour, &c.

*Sir C. R. Vaughan,*  
&c. &c. &c.

(Signed) ARCHIBALD CAMPBELL.

## Inclosure 2 in No. 2.

*Mr. Maclauchlan to Sir A. Campbell.*

Sir,

*Restook, November 22, 1833.*

WITH reference to my letter of 28th September last, I have now the honor to acquaint your Excellency that the upper road alluded to in my communication has been opened by the Americans as far as the Restook River, about fifty-two miles from its confluence with the St. John, and consequently passing through fifteen miles of the territory in dispute.

This line of road, which no doubt is intended to intersect the St. John River in the Madawaska settlement, and in my opinion will be completed early next season, unless early steps are taken by the Government to prevent it, is now opened sixty-two miles, and unites with the military communication leading from Bangor to the garrison at Houlton, at the fork of the Madawampkey River.

It has been cut out two rods or thirty-three feet in width, with twelve feet levelled, at an expence of thirty pounds a mile, and under the direction of Messrs. Coffin and Rose, land-agents for the States of Massachusetts and Maine.

I beg leave further to state to your Excellency the land on this road has been surveyed for settlement, and settlers are already within twenty miles of the Restook.

I have, &c.

*Sir A. Campbell,*  
&c. &c. &c.

(Signed) J. A. MACLAUHLAN,  
Warden of the Disputed Territory.



Inclosure 3 in No. 2.

*Sir C. R. Vaughan to the Hon. Louis McLane.**Washington, December 17, 1833.*

III.

Further interference of Agents of Maine and Massachusetts in the disputed Territory.

THE Undersigned, &c. &c. regrets that a letter received from His Majesty's Lieut.-Governor of New Brunswick, should again require him to ask the intervention of the General Government of the United States, to put a stop to certain proceedings of the State of Maine, in the territory still in dispute between Great Britain and the United States.

The inclosed letter, with the report which accompanies it, shows that the State of Maine has opened a road beyond the conventional frontier, with the avowed intention of carrying it to the bank of the St. John River.

The Undersigned is convinced that the Secretary of State of the United States will agree with him, that the State of Maine must not be allowed to take upon herself the right to define the meaning of the Treaty of 1783, and by aggressions, such as those, against which the Undersigned is called upon to remonstrate, to take possession, without reference to the General Government of the United States, of territory which has been so long in abeyance between the two Governments. Such conduct is calculated to lead to collisions of a distressing nature between the subjects of His Britannic Majesty and the citizens of the United States, employed to assert a futile and hazardous possession, which so entirely depends upon the arrangements in progress between the two Governments.

The Undersigned trusts that the representation made in this note, will be received by the Secretary of State in the same spirit of goodwill and conciliation which has hitherto characterized the conduct of the Government of the United States, in all occurrences of a similar nature.

*The Hon. Louis McLane,*  
&c. &c. &c.

The Undersigned, &c.  
(Signed) CHAS. R. VAUGHAN.

Inclosure 4 in No. 2.

*The Hon. Louis McLane to Sir C. R. Vaughan.**Department of State, Washington, December 21, 1833.*

THE Undersigned, &c. has the honor to acknowledge the receipt of the note addressed to him on the 17th instant, by Sir C. R. Vaughan, &c., requesting the intervention of the Government of the United States to put a stop to certain proceedings of the State of Maine in the territory still in dispute between Great Britain and the United States.

The proceedings referred to, appear by the letter of the Lieut.-Governor of New Brunswick, and the report of the officer acting on the part of Great Britain as warden of the disputed territory, copies of which accompanied Sir C. R. Vaughan's note, to be the construction of a road to the Restook River, passing, as is alleged, through fifteen miles of the disputed territory, and supposed by the Warden to be intended to intersect the St. John River in the Madawaska settlement.

The Undersigned is happy to have it in his power to afford at once such explanations upon this subject as he trusts will be satisfactory. By a communication received from the Governor of Maine, in answer to a representation recently made by Sir C. R. Vaughan, concerning other alleged encroachments on the disputed territory, it will be seen that no part of the road now constructing by that State is believed to be within the territory of which the British Government has ever been in the actual possession since the Treaty of 1783, and that it is not designed to extend the road beyond the Aroostook. The apprehensions entertained of its being extended to the St. John's River in the Madawaska settlement appear therefore to be groundless, and if the views of the Governor of Maine as to the locality of the road be correct, it would seem that its construction can afford no just cause of complaint, as it is not supposed that such improvements made by either party within that part of the territory, which has been in its possession, or so considered, since the Treaty of 1783, are contrary to the spirit of the existing understanding between the two Governments. It will be seen, moreover, as well by the communication from the Governor of Maine as by one received from the Governor of Massachusetts on the same occasion, that a conciliatory and forbearing disposition prevails on their part, and that no measure will be taken or any acts authorized by them, which may justly be considered as a violation of the understanding in regard to the disputed territory.

The Undersigned has, nevertheless, been directed by the President to transmit copies of Sir C. R. Vaughan's note, and its inclosures, to the Governors of Maine and Massachusetts, and to repeat to their Excellencies his earnest desire that, as far as depends on them, no departure from the understanding between the two Governments may be permitted.

In regard to the complaint heretofore made by Sir C. R. Vaughan upon the representations of the Lieut.-Governor of New Brunswick, and the Warden of the disputed territory, as to the cutting and sale of timber under the authority of the land agents of Maine and Massachusetts, the Undersigned begs leave to refer to the communications from the Governors of those States, already mentioned, copies of which are now transmitted, by which it appears that the conduct of those agents has furnished no just cause of dissatisfaction, but that, on the contrary, it is alleged that His Britannic Majesty's officers of the province

of New Brunswick, by the seizure and sale of timber cut by trespassers on the Aroostook, and afterwards in the rightful custody of the agent of the State of Massachusetts, have been the first to violate the existing understanding on this subject.

These complaints on both sides arising, as the Undersigned believes, from acts which do not on either side indicate an intention to disregard the existing understanding, but are attributable to the unsettled state of the boundary question, and which should therefore be viewed with mutual forbearance, furnish increased reason for a speedy adjustment of that interesting matter; and the President looks with great solicitude for the answer which is daily expected from the British Government to the proposition submitted on the part of the United States, in the hope that it may soon set all those difficulties at rest.

The Undersigned, &c.  
(Signed) LOUIS McLANE.

Sir C. R. Vaughan,  
&c. &c. &c.

111.

Further interference of Agents of Maine and Massachusetts in the disputed Territory.

Inclosure 5 in No. 2.

*Mr. Smith to the Hon. Louis McLane.*

Sir, *Executive Department of Maine Augusta, November 23, 1833.*

I HAVE the honour to acknowledge the receipt of your letter of the 23d of October last, communicating a copy of a note from Sir Charles R. Vaughan, accompanied with a copy of a letter from Sir Archibald Campbell, Lieut-Governor of New Brunswick, to Sir Charles R. Vaughan, and also of a letter from Lieut. J. A. Maclauchlan to Sir Archibald Campbell, complaining of the conduct of the land agents of the States of Maine and Massachusetts, in the territory in dispute between the United States and Great Britain.

In compliance with your request to be furnished with information in relation to this subject, I reply, that by a resolve of the legislature of this State, passed March 30, 1831, "the land agent of this State, in conjunction with the land agent of the commonwealth of Massachusetts, is authorised and empowered to survey, lay out, and make a suitable winter road, or cause the same to be made, from the mouth of the Metawankeag, a branch of the Penobscot River, in a northerly direction, so as to strike the Aroostook River, on, or near the line, dividing the sixth and seventh ranges of townships." The same resolve authorizes the land agents to lay out and make, or cause to be made, a winter road, from the village of Houlton, in a westerly direction, to intersect the road to the Aroostook River at some point most convenient for travelling, and most for the interest of the State. By a subsequent resolve, passed March 8, 1832, the authority given to the land agents was enlarged; so as to authorize them "to locate and survey the Aroostook Road, so that it may strike the Aroostook River at any place between the west line of the third range, and the east line of the sixth range of townships, west of the east line of the State." The first of those roads has been surveyed and located, and much the greater part of it lies within the undisputed limits of this State, south of the sources of the Penobscot River; and it is believed that no part of it lies within territory of which the British Government has ever been in the actual possession since the Treaty of 1783. A portion of this road only has yet been opened, and I have no information that any part of it has been opened over territory claimed by the British, although it is contemplated to extend it to the Aroostook, when it can be done consistently with the public interest. The second road described in the resolve of March 30, 1831, is wholly within the undisputed limits of the State.

A report of the recent proceedings of the land agent, in making these roads and disposing of the timber on the lands of the State, has not been received; and his late sickness and death has rendered it impossible at this time to obtain a detailed statement of all that has been done in his official capacity. But it cannot be presumed that he has, in any particular, exceeded his instructions, copies of which are herewith transmitted; or, in the discharge of his official duties, taken any measures, or authorized any acts to be done which could justly be considered as a violation of any known provision of the existing arrangement between the Governments of the United States and Great Britain, in regard to the disputed territory.

I have the honor, &c.  
(Signed) SAMUEL E. SMITH.

The Hon. Louis McLane,  
&c. &c. &c.

#### STATE OF MAINE.

*In Council, March 9, 1833.*

Present—The GOVERNOR.

Messrs. DUNLAP,  
PIERCE,  
SAWYER,  
HODGDON,

Messrs. CLARK,  
HODGMAN,  
DANA.

The Committee of the whole council, to which was referred the subject of the State Lands, having taken that subject into consideration, report:—That in their opinion the



III.

Further interference of Agents of Maine and Massachusetts in the disputed Territory.

land agent is better able than any other person to determine what towns should be explored, and what lines should be run anew the ensuing season. They would, therefore, recommend that said agent be authorized to cause such explorations to be made, and such lines to be run, as he may think the interest of the State requires. They would further recommend that said agent be authorized, if he deem it expedient, to cause to be lotted and offered for sale to actual settlers, the township numbered three in the fourth range, and numbers six and eight in the fifth range; but they wish to give the subject further consideration, before they authorize the said agent to lot out any other towns, or make sale of any timber. Your committee further report, that the public good does not require that the lands and timber belonging to the State and the Commonwealth of Massachusetts should at this time be put into the market; but that the interest of this State does require, that the sale of such lands and timber should be suspended for the present.

They therefore recommend that the Governor should be advised to suspend the authority of the land agent of this State to sell any such lands and timber until the meeting of the next Legislature, agreeably to the resolve relating to said lands, passed March 9th, A.D. 1832.

All which is respectfully submitted.

(Signed)

JUDAH DANA, per Order.

*In Council, March 9, 1833.*

This report, on being read, was accepted by the Council, and by the Governor approved.

Attest.

(Signed)

R. G. GREENE, Secretary of State.

#### STATE OF MAINE.

*In Council, June 26, 1833.*

Present—The GOVERNOR,

Messrs. DUNLAP,  
PIERCE,  
SAWYER,  
HODGDON,

Messrs. CLARK,  
HODGMAN,  
DANA.

THE Committee of the Council, to which was referred a communication from Daniel Rose, Esq., land agent, report:—That the land agent be instructed to sell at public auction the timber of the following townships belonging to the State: to wit—No 8, seventh range; No. 2, ninth range; and No. 7, sixth range. Your committee would further report, that the land agent be instructed to cause to be explored and surveyed into sections, the present year, townships numbered two and three in the eleventh range.

(Signed)

R. P. DUNLAP, per Order.

*In Council, June 26, 1833.*

This report on being read, was accepted by the Council, and by the Governor approved.

Attest.

(Signed)

R. G. GREENE, Secretary of State.

Inclosure 6. in No. 2.

*Mr. Levi Lincoln to the Hon. Louis McLane.*

*Executive Department of Massachusetts,*

Sir,

*Worcester, November 15, 1833.*

I HAVE the honour to transmit herewith a copy of a letter from the land agent of this commonwealth, in answer to inquiries which I addressed to him on the subject of complaints, by His Britannic Majesty's Provincial Officers, of aggressions upon the territory in dispute between the two countries, in contravention of the understanding that no act of prejudice to the property should be permitted by the citizens or subjects of either, pending measures for the amicable settlement of the matter in controversy.

It will satisfactorily be perceived, as, I trust, from this communication, that no just occasion has been given, on the part of the Government of Massachusetts, for the representation transmitted to you by His Majesty's Minister; but, on the other hand, that there is cause to remark that His Majesty's Officers of the Province of New Brunswick, by the seizure and sale of timber cut by trespassers on the Aroostook, and afterwards in the rightful custody of the agent of this commonwealth, have been the first to violate the existing understanding on this subject. Indeed, Sir, the unsettled state of the question of boundary is daily becoming more and more embarrassing to the exercise of the unquestionable rights of property with us. The most desirable improvements of country are repressed, and the settlement and cultivation of an extensive and invaluable territory altogether prevented. A spirit of dissatisfaction and irritation is increasing between the border inhabitants of the State and Province respectively, and there is reason to apprehend that the Governments of Massachusetts and Maine will find it as difficult to forego much longer jurisdiction over the property, as to deny to their citizens their urgent demand for its occupation and enjoyment.

Whatever acts the land agent admits to have been done by his direction appear, to have been fully authorised by the legislature. The resolves to which he refers have heretofore been duly forwarded to your department, and in connexion with various documents which were made public, will afford, as I doubt not, every desirable explanation of the forbearing and conciliatory proceedings of the Government of the State.

*The Hon. Louis McLane,*  
&c. &c. &c.

I have the honour to be, &c.  
(Signed) LEVI LINCOLN.

111.

Further interference of Agents of Maine and Massachusetts in the disputed Territory.

*Mr. G. W. Coffin to Levi Lincoln, Esq.*

*Commonwealth of Massachusetts, Land Office, Boston, November 8, 1833.*

To His Excellency the Governor of the Commonwealth of Massachusetts.

May it please your Excellency,

I HAD the honour yesterday to receive your letter of the 4th instant, covering complaints from the authorities of His Britannic Majesty's Colony of New Brunswick, the same having been transmitted to you from the Secretary of State of the United States, of certain acts said to have been committed by the land agents of Maine and Massachusetts, touching the territory in dispute, &c.

It will be recollected by your Excellency, that a resolve passed the legislature of this Commonwealth, dated the 10th of March, 1827, suspending further proceedings on the part of this Commonwealth in relation to the road from Penobscot River to Fish River, and for surveying of lands and other acts of ownership, within the territory in dispute, on or near the north-eastern boundary of the State of Maine, until further orders of the general court. This resolve was accompanied by a report which distinctly shews what were the views of the legislature at that time in passing said resolve.

From the time said resolve passed I have forbore taking any measures that should conflict therewith, and have confined myself strictly to its provisions, reserving, however, the right to such a supervision of the territory as was necessary to secure the country from depredations, and when evidence appeared, I have reported from time to time to your Excellency such facts as were within my knowledge.

As to the charge of holding out inducements to the subjects of both countries to cut pine timber on the territory in dispute, so far as concerns my agency, it is certainly groundless. I have received repeated applications for permits to cut timber, and I have invariably answered that I would not grant any, until the disputes should be settled, and if any timber was cut I should order it to be seized; winter before last I caused some timber to be seized upon the Aroostook River, and a short time after the same timber was seized by the British, I think by the same person that prefers this complaint, as pursuant to his orders. The timber was afterwards sold, and the amount, whatever it may have been, went into the hands of the officers of the colony of New Brunswick. It is apparent, therefore, that our interest is to prevent timber being cut, rather than to induce the cutting.

The other charge relative to making roads, &c., if it applies to me at all, must be in consequence of the road from Metawampkeag River to the Aroostook River, and which is now about completed, and was made pursuant to the resolve passed 15th March, 1831, and 14th March, 1832. I have no knowledge of any other road, or any other measure which has been adopted that comes in contact with the territory in dispute. The whole country is full of reports and assertions, which, if they were at all to be credited, would furnish ample employment of my time in making complaints to your Excellency of the proceedings of Mr. MacLaughlan, but I have generally considered them as groundless exaggerations and pass them by as such.

The opening of the above-mentioned road has been of immense advantage to our public lands. If we are to wait improvements and wait till the controversy is settled, and the British have received the avails for all the timber in the territory in question, we may as well surrender our rights to it at once, and let the sufferings inhabitants of Madawaska look elsewhere for protection. I cannot conceive why the making of roads should be considered offensive, unless it may divert some of the trade from Fredericton to Bangor. We should be acting the part of extreme folly to let so fine a country remain a howling wilderness when it is capable of affording comfort and even affluence to millions.

I remain, &c.,  
(Signed) GORGE W. COFFIN, Land-Agent.

Inclosure 7 in No. 2.

*Sir C. R. Vaughan to the Hon. Louis McLane.*

*Washington, December 23, 1833.*

THE Undersigned, &c., has the honor to acknowledge the receipt of the note of the Secretary of State of the United States in answer to the representation, which he was called upon to make, respecting proceedings in the States of Massachusetts and Maine in the disputed territory.

To understand correctly the bearings of the roads, which those States have resolved to construct, requires a more accurate knowledge of the topography of the country through



## III.

Further interference of Agents of Maine and Massachusetts in the disputed Territory.

which they are to pass, than the Undersigned possesses, but he will not fail to transmit a copy of Mr. McLane's note, together with its enclosures, to His Majesty's Lieutenant-Governor of New Brunswick. In the meantime the Undersigned begs leave to observe, that the letter from the Executive of Maine states that one of the roads surveyed and located, lies for the greater part of it within the undisputed limits of that State, "although it is contemplated to extend it to the Aroostook River." The land agent of Massachusetts is aware that the road from the Matawankeag River to the Aroostook, is the one that has given rise to complaint, and which, he observes, "is now nearly completed." As the Aroostook River from its source till it falls into the St. Johns, flows exclusively through the disputed territory, to reach it by a road from the State of Maine, must cause an encroachment, and be considered an attempt to assume a right of possession in territory, which has never yet been set apart from the original possession of Great Britain, on account of the difficulties of ascertaining the boundary according to the Treaty of 1783.

With regard to the cutting down and sale of timber, the justification of the land agent of Boston will be submitted to Sir Archibald Campbell, and the Undersigned is sure that the grievance complained of, taking away timber, which had been seized by the agent from Massachusetts, will be attended to.

The Undersigned receives with great satisfaction the assurance of Mr. McLane, that "a conciliatory and forbearing disposition prevails on the part of Massachusetts and Maine, and that no measure will be taken, or any acts authorized by them, which may justly be considered as a violation of the understanding in regard to the disputed Territory:"—and he cannot conclude without begging leave to acknowledge the readiness with which the President directed enquiries to be made, and the desire which he has shewn on this, and every similar occasion, to prevent any encroachment on the disputed territory, pending the settlement of the boundary now in progress between the two Governments.

The Undersigned, &c.,

(Signed)

CHAS. R. VAUGHAN.

The Hon. Louis McLane,  
&c. &c. &c.

Inclosure 8 in No. 2.

*Sir C. R. Vaughan to Sir A. Campbell.*

Sir,

Washington, December 25, 1833.

ON the 24th October, I forwarded to your Excellency a copy of a note, which I addressed on the 20th of that month to the Secretary of State of the United States, in consequence of a communication from you, reporting objectionable proceedings in the disputed territory, on the part of land agents of the States of Massachusetts and Maine. I have now the honor to transmit to your Excellency a copy of a note, which I addressed to the Secretary of State on the 17th December, in consequence of having received from you another report of proceedings on the part of the State of Maine, in opening a road beyond the conventional frontier, with the avowed intention of carrying it to the bank of the St. Johns.

On the 21st December, I received an answer from Mr. McLane, inclosing the explanations given by the Governments of Maine and Massachusetts of the proceedings complained of in my first note of the 20th October last. I have the honour to transmit to your Excellency a copy of Mr. McLane's answer, and also a copy of a note, which I thought it advisable to send to him on the 23d instant, acknowledging the receipt of it.

Though Mr. McLane has ventured in his note, to consider the explanation he affords to be satisfactory, as the new road is not to be extended beyond the Aroostook, I have thought it necessary to point out to him, that the road cannot be carried to that river without encroaching on the disputed territory, through which exclusively the river flows from its source to the St. Johns.

Your Excellency will better understand, than I can, the course of the roads to be made according to the resolves of Maine and Massachusetts, by the description of lines of townships, of the position of which I am ignorant.

I beg leave to call your attention to the assertion contained in the letter of the land agent at Boston, that timber which he had seized, as illegally felled, was resealed by the agent of New Brunswick and sold by the latter.

The note of the Secretary of State declares, that a conciliatory and forbearing disposition prevails on the part of Maine and Massachusetts, which is at variance with the repeated attempts on their part to assert a futile possession, from time to time, of some part of the disputed territory. I can venture, however, to assure your Excellency, that the very best disposition to redress such conduct exists on the part of the President, but the direct controul which he can exercise over the State, separately, is not clearly defined, and it is almost always resisted. We may be assured that any just ground of complaint will meet with the best redress that the General Government can afford, considering its constitutional relations with each State, which considers itself sovereign and independent.

I have the honour, &c.

(Signed)

CHAS. R. VAUGHAN.

Sir Archibald Campbell,  
&c. &c. &c.

No. 3.—*Sir C. R. Vaughan to Viscount Palmerston.*—(Received April 21.)

My Lord,

Washington, March 12, 1834.

III.

IN a note which I received from the Secretary of State of the United States, dated 21st December last, a copy of which I had the honor to transmit to your Lordship in my despatch of Dec. 28, mention was made of the seizure of some timber which had been unlawfully felled upon the disputed territory in New Brunswick, by a land agent of the State of Massachusetts, and afterwards re-seized by an agent acting under the authority of the Government of New Brunswick.

Further interference of agents of Maine and Massachusetts in the disputed Territory.

Having transmitted a copy of Mr. McLane's note to Sir Archibald Campbell, I have received from His Excellency a satisfactory explanation of that transaction, which I have communicated to the American Government.

I have the honor to inclose a copy of the letter of Sir Archibald Campbell, of my note to Mr. McLane, and of the answer of the latter acknowledging the receipt.

The seizure of timber in the disputed territory of which Great Britain is in possession, until the boundary is settled, by a land agent of Massachusetts, could never be permitted, as it would acknowledge the right of Massachusetts to exercise jurisdiction, in what must still be considered as a part of New Brunswick. It appears, however, that all the timber seized by the British agents, as having been unlawfully cut down upon the disputed territory, is sold, and the proceeds of the sale are carried to a separate account, the disposal of which awaits the adjustment of the boundary.

Your Lordship will find in the inclosed letter of 20th January, from His Majesty's Lieut.-Governor of New Brunswick that, while His Excellency places implicit reliance upon the friendly sentiments expressed in the notes of the Secretary of State, the communications from the State Governments are not couched in the same spirit of forbearance and conciliation, and indeed the aggressions of which we have lately complained, were committed according to the decisions and resolves of the legislature of Massachusetts and Maine. They seem to consider the position of the disputed territory during the unsettled state of the boundary, as too favourable to the views and interests of Great Britain, and to this feeling must be attributed their constant attempts, to contest the jurisdiction exercised over it, exclusively by the Government of New Brunswick. At one time an attempt was made to take a census of the population of some British settlements, at another to lay out the land into townships and offer it for sale, as though the right to the territory was vested in the United States.

The decisive conduct of General Jackson in repressing these attempts, immediately after he became President, together with the reference of the dispute about boundary to arbitration, caused, for some time, a suspension of the futile attempts of Maine and Massachusetts to assert a right of jurisdiction. Since the rejection of the award of the arbiter, by the Government of the United States, there is a disposition to renew the vexatious proceedings, and a road has been laid out which is to pass beyond the conventional boundary.

In a letter to Sir A. Campbell, dated the 23rd of February, (a copy of which is inclosed,) I have expressed my conviction that the encroachments of the States are made without the knowledge and against the inclination of the General Government, but that I am of opinion that we must continue to protest against them. The reluctance and opposition of the States to obey the orders of the General Government, may give uneasiness and vexation to the Lieutenant-Governor of New Brunswick; but so long as the General Government is willing to afford redress, the ill-understood rights and interests of the State of Maine, cannot give rise to any serious conflict.

I have the honor to be, &c.

Viscount Palmerston, G. C. B.  
&c. &c. &c.

(Signed)

CHAS. R. VAUGHAN.

Inclosure 1 in No 3.

*Sir A. Campbell to Sir C. R. Vaughan.*

Sir,

Government House, Fredericton, New Brunswick, January 20, 1834.

I HAVE the honour to acknowledge the receipt of your Excellency's letter of the 25th ult. conveying to me copies of the answers of the General Government, and of those of Maine and Massachusetts to your Excellency's able notes upon the last violation, by the presumed agents of these Governments, of the existing engagements with respect to the contested boundary.

I am unwilling to trouble your Excellency with any remarks upon these documents which must already have sufficiently engaged your attention, but I may, without impropriety, be permitted to observe that while I place implicit reliance upon the friendly sentiments expressed in the note of the American Secretary of State, I cannot but perceive that some of the communications from the State Governments are not couched in that spirit of peace and of forbearance which is so desirable at the present moment, but contain assumptions of a threatening nature which it must be the interest and object of the General Government to discountenance and repress.

Hitherto the trespasses and aggressions which have never ceased to be committed by certain parties from the neighbouring State, have been, in most instances, considered and



## III.

Further interference of agents of Maine and Massachusetts in the disputed Territory.

treated as unwarranted, if *not unrestrained*, by the State Governments; and it is therefore with great regret I learn that the roads which we complain of, have been carried into the territory claimed and held by Great Britain, under express authority from the legislatures of Maine and Massachusetts. In my last letter on this subject I stated that the roads in question had been carried some distance within the line claimed by Great Britain; and as this is not denied by the State Authorities it is difficult to understand what Mr. McLane can mean when he states that, "it is believed to be within the territory of which the British Government has never been in the actual possession since the Treaty of 1783," and "that it is not intended to extend the road beyond the Aroostook." The term "actual possession," is of a very doubtful and indefinite meaning, when applied to an uninhabited and wilderness country, and it might, without any impropriety, be extended to nearly the whole country in dispute: and it is only therefore necessary to observe, as your Excellency has already done, in answer to this explanation, that the Aroostook River, from its source to its confluence with the St. John, lies wholly within the territory claimed by Great Britain, as your Excellency will at once perceive on reference to the Map A.

I am most happy, however, to find that it is not contemplated to make any further attempts to exercise the rights of sovereignty within the conventional frontier. Our provisional rights of jurisdiction and of occupancy have been too frequently, *and at all hazards*, asserted and maintained, to leave any doubt as to the course we must again pursue if the construction of this road be persevered in, or other encroachments made upon the lands in question.

I venture to assure your Excellency, that it has ever been my anxious wish and endeavour to prevent all just cause of complaint against any one connected with this province; on all practical occasions I have acted in that spirit of conciliation and forbearance which I know to be so essential to the preservation of harmony and good will between the people of the two countries, and in the explanation which I have now to offer upon the complaint of the land agent of Massachusetts, I think I shall be able to satisfy the General Government that I have sanctioned nothing at variance with these professions. Mr. Maclauchlan was appointed to the wardenship of the country, with the knowledge and concurrence of the President, and it is not conceived, therefore, that any fair ground of objection can be taken to his faithful performance of the duties of his office; but this Government never has admitted, and never can admit, the right of any agent from Maine or Massachusetts, to exercise authority within the conventional frontier of the province, while its proper limits remain a subject of negotiation. The seizures of timber, therefore, alluded to by Mr. Coffin as having been made by His Majesty's officers, even if made as stated, would in no way amount to an infringement of the existing understanding. The inclosed account of this transaction will, however, place it in a different light; and I have only further to add, that every sixpence arising from seizures in the disputed territory has been invariably paid over to the Receiver General of the Province, by whom a separate fund, and separate account of all such monies is regularly kept.

I have, &c.

Sir C. R. Vaughan,  
&c. &c. &c.

(Signed)

ARCH. CAMPBELL.

Inclosure 2 in No. 3.

*Mr. Beckwith to Sir A. Campbell.*

*Department of Crown Lands and Forests,*

*Fredericton, January 18, 1834.*

Sir,

EARLY in February, 1832, I obtained information that several parties of lumber-men were at work within the bounds of the disputed territory, and principally on the river Aroostock, which information I submitted to your Excellency, and was in consequence instructed by your Excellency to inspect the said territory, seize any timber which had been cut, and require the trespassers to desist forthwith. Your Excellency, at the same time, expressed a wish that such inspection should be made with the cognizance of the public authority of the State of Maine, and that an officer of the said State should be requested to accompany the officer whom I should despatch on that service. In conformity to those instructions of your Excellency, I instructed Mr. B. R. Jouett to proceed to Houlton, exhibit his orders to the justices of that township, together with a communication explanatory of the object of his inspection, and to request that some officer of the State might accompany him. On 20th March, Mr. Jouett reported, that he had carried my instructions into effect, that he had found a number of the squatters at work and seized the timber they had made, and that in almost every case they desisted on being requested to do so and warned of the consequences of persisting. After Mr. Jouett's return, I notified those persons, that if they did not remove the timber from where it lay, no further steps should be taken in the matter, but if they attempted to convey it down the St. John, it should be seized and condemned; some of the timber was removed, and in most cases it was seized and condemned, and sold at from three shillings to nine shillings per ton, and the net proceeds carried to the disputed territory account, and in some instances, the parties, by altering the marks and mixing their timber up with other rafts, succeeded in escaping the vigilance of my deputies; prosecutions were commenced, but proceedings were, I believe,

stayed in consequence of the extreme indigence of the trespassers. I have been further informed by Mr. Jouett, that after accidentally meeting the deputy agent, Mr. Fairbanks, at the River des Chutes, as mentioned in his report, that gentleman being on his way to his residence on the Aroostock, proceeded in company with Mr. Jouett so far as their respective roads lay in the same direction, and during that time pointed out to him several lots of timber, cut by squatters, which lots he understood, from general report, had been seized by Mr. Fairbanks, but the trespassers paid no regard to such seizure, and Mr. Jouett also marked them according to his instructions.

III.

Further interference of agents of Maine and Massachusetts in the disputed Territory.

Sir A. Campbell,  
&c. &c. &c.

I have the honor to be, &c.  
(Signed) JOHN A. BECKWITH,  
Acting Commissioner and Surveyor-General.

Inclosure 3 in No. 3.

*Sir C. R. Vaughan to the Hon. Louis McLane.*

*Washington, February 28, 1834.*

THE Undersigned, &c. has the honor to communicate to Mr. McLane, &c., the explanation which he has received from the Lieutenant-Governor of New Brunswick, of a transaction complained of by the land agent of Massachusetts in a report communicated to the Undersigned, in a note from Mr. McLane, dated 21st December last.

The complaint arose out of the seizure of timber cut down without authority upon the disputed territory, and which, after having been seized in the first instance by the land agent of Massachusetts, was taken possession of and sold by the British agent entrusted with the preservation of the disputed territory on the north-east frontier of the United States.

The explanation of this transaction is contained in an extract of a letter to the Undersigned from the Lieutenant-Governor of New Brunswick, and the report of Mr. Beckwith the Surveyor-General of that province, which the Undersigned has the honour to inclose in this note.

The seizure of the timber in the first instance, by Mr. Coffin, the land agent of Maine, was the exercise of authority within the conventional frontier of the province of New Brunswick, which could not be admitted so long as the north-east boundary of the United States remains a subject of negotiation; and it appears that the proceeds of the sale of timber unlawfully cut down, are carried to account, and the possession of them will finally be appropriated to the party to which the territory may be adjudged by the settlement of the boundary question.

The Undersigned trusts that the explanation which he is now able to give of this transaction will prove satisfactory to the Government of the United States.

The Undersigned, &c.  
(Signed) CHAS. R. VAUGHAN.  
*The Hon. Louis McLane.*  
&c. &c. &c.

Inclosure 4 in No. 3.

*The Hon. Louis McLane to Sir C. R. Vaughan.*

Sir,

*Department of State, Washington, March 4, 1834.*

I HAVE the honor to acknowledge the receipt of your note of 28th ultimo, furnishing the explanation of the Lieutenant-Governor of New Brunswick, of a transaction referred to by the land agent of Massachusetts, in a letter addressed to his Excellency the Governor of that Commonwealth, and subsequently communicated to you by this department, in a note dated 21st December last, and to inform you that copies of your communication, together with the documents which accompanied it, shall, by direction of the President, be transmitted, without unnecessary delay, to the Executive of the State of Massachusetts.

I pray you, &c.  
(Signed) LOUIS McLANE.  
*Sir C. R. Vaughan,*  
&c. &c. &c.



## V.

## Speech of Mr. Lincoln, of Massachusetts, in the house of Representatives respecting the Boundary of Maine; and Debate thereupon.—December 24, 1834.

(Inclosure in Sir C. R. Vaughan's Despatch of Jan. 12, 1835, p. 73, Class A.)

## DEBATE ON THE MAINE BOUNDARY.

*House of Representatives, December 24, 1834.*

## IV.

Speech of Mr. Lincoln on the boundary of Maine.

THE following resolution offered yesterday by Mr. Lincoln, of Massachusetts, was taken up for consideration:

Resolved, That the President of the United States be requested to lay before this house, (if in his opinion it is not incompatible with the public interest,) any communications which may have been had between the Government of the United States and that of Great Britain, since the rejection by the former of the advisory opinion of the King of the Netherlands, in reference to the establishment and final settlement of the north-eastern boundary of the United States, heretofore in controversy between the two Governments.

And that he also be requested to communicate any information which he may possess of the exercise of practical jurisdiction, by the authorities of the British Province of New Brunswick, over the disputed territory, within the limits of the State of Maine, according to the true line of boundary as claimed by the United States; and especially upon that part of the territory which has been incorporated by the Government of Maine into the town of Madawaska, together with such representations and correspondence (if any) as have been had by the Executive of that State with the Government of the United States, on the subject.

Mr. Parks, of Maine, said, that as the resolution was one particularly interesting to the State of Maine, and as no member of the delegation from that State, in either branch of congress, had thought it necessary to call for information on that subject, he asked the honorable gentleman from Massachusetts, what was his object in making the call, and more especially as regarded what was embraced in the two last parts of the resolution.

Mr. Lincoln said, that he had not anticipated, that there could be any possible objection to the resolution. He certainly had not offered it without believing that a useful object was to be attained. He could not consent to the prejudice of having it supposed for a moment, that he would either do himself the injustice, or offer the indignity to the house of proposing the inquiry suggested in the resolution, without a proper and reasonable motive. He should therefore, most cheerfully, in response to the call of the member from Maine (Mr. Parks) endeavor, in a brief, and, as he hoped, not unsatisfactory manner, to explain the objects of the resolution.

The State of Massachusetts (said Mr. Lincoln,) has a very deep and especial interest in the subject to which the resolution refers. As one of its representatives, he should feel, that, in this interest, there was a sufficient apology, if any was needed, for the measure he had proposed. It is a fact too well known to the gentleman himself and to the members of the house, to need (said Mr. Lincoln) my information, that, by the act of the ancient commonwealth, giving her assent to the separation of the territory now constituting the State of Maine, and its erection into an independent State, the wild and uncultivated lands of that territory were to be the common property of the two Governments. The quantity of these lands did not far vary from five millions of acres, one moiety of which, in common and undivided with Maine, by the terms of separation, incorporated into and made part of the fundamental law of that state, remained to Massachusetts. Over a great portion of these lands, by a monstrous pretension of the British Government, under the definitive Treaty of Peace of 1783, which defined the northern and north-eastern boundary of the United States, an adversary claim has, within a few years past, been extended.

By the fifth article of the Treaty of Ghent, provision was made for the settlement of this boundary, and, pursuant to a Convention subsequently entered into, the controversy concerning it was submitted to the arbitrament and decision of the King of the Netherlands. [Here Mr. L. went into a history of the negotiations and Conventions which had been held on the subject of the boundary.]

The next question in issue between the parties was the true position of the highlands, which should limit a due north line from the source of the river St. Croix, and satisfy the language of the Treaty of 1783, and to define and mark, upon the face of the country, by reference to natural appearances and monuments, this line was the only purpose of the submission. His Majesty the King of the Netherlands entered upon the duty of arbitrator, under the terms of the submission; and after an examination of the subject, being unable or affecting to be unable, from the documents and arguments presented to him, to decide the matter in dispute, he substituted, for an adjudication upon the question referred to his decision, a proposition of his own for the establishment of a new line of boundary between the two countries. Instead of the highlands which divide the waters of the Atlantic from those of the St. Lawrence, as described in the Treaty, he advised to the adoption of the

depths of the channel of a river, or, in his own more princely phraseology, "the thalway of the stream of the waters of the St. John's," as the future limit of the possessions and jurisdiction of the respective Governments.

Mr. Speaker, (continued Mr. L.) the communication of this result of the arbitrament was received with a burst of surprise, indignation, and apprehension, both in Massachusetts and Maine. The Legislature of each State passed resolutions remonstrating to the general Government against its acceptance. Maine, in a more especial manner, adopted the most strenuous efforts to resist it. In the imposing attitude of her State Sovereignty, she sent a special commissioner, clothed with almost plenipotentiary powers, to the Government of Massachusetts, inviting and soliciting her co-operation to defeat or resist, as occasion might require, the injustice and violence of the proposition. The earnest remonstrances of the State Governments reached the national councils, and, influenced by these, or other considerations, the Senate of the United States, on the 23rd of June, 1832, adopted a resolution which was decisive of the rejection of the opinion of the arbitrator. I beg leave of the house to read this resolution:

"Resolved, That the Senate advise the President to open a new negotiation with his Britannic Majesty's Government for the ascertainment of the boundary between the possessions of the United States and those of the King of Great Britain, on the north-eastern frontier of the United States, according to the Treaty of 1783."

It is worthy of special notice and consideration, that a resolution reported by the Committee of Foreign Relations, in the following words: "That the Senate advise the President to express to His Majesty the King of the Netherlands the assent of the United States to the determination made by him, and consent to the execution of the same," had been previously rejected by the decisive majority of 35 to 8 votes, in that body.

Such, Sir, was the state of this much vexed subject in June, 1832. And what is the state of it now? The President, in his annual message, at the commencement of the present session, informs us, that, "the question of the north-eastern boundary is still pending with Great Britain, and the proposition made in accordance with the resolution of the Senate, for the establishment of a line according to the treaty of 1783, has not been accepted by that Government."

A negotiation pending! And to what end? If the proposition, in conformity with a resolution of the Senate, has not been acceded to, has it been rejected? Is the Government negotiating for any other line of boundary than that described in the Treaty of 1783? No other, give me leave to say, will ever be acquiesced in by the States. I claim no authority to stand here in vindication of the rights and honor of the State of Maine. These are in better keeping. The honorable gentlemen who represent her on this floor, will do her ample justice. But if I know any thing of the character of the hardy and industrious citizens of that State, and I think I am not altogether ignorant in this particular, for they are "bone of our bone, and flesh of our flesh," they, no more than the people of Massachusetts, will consent to the sacrifice of their interest in this valuable property. Now he, (Mr. L.) wished to know, wherefore the proposition to negotiate for the settlement of the boundary, according to the Treaty of 1783, had not been accepted, and what was the alternative to its rejection. What was Maine to do? And what was to be the part of Massachusetts? The Government of the latter State had given a solemn pledge to the former, that she would stand by her to the last in maintaining this right of property; that, come what might, happen what would, she would never consent to the surrendering of the jurisdiction over it, which she had guaranteed by consenting to the act of separation, and this pledge, he (Mr. L.) felt well assured, would, at every hazard, and in all time, in good faith, be held sacred.

But, (said Mr. L.) the passage in the very brief allusion made to this most important subject, contains the following expression: "Believing that every disposition is felt, on both sides, to adjust this perplexing question to the satisfaction of all the parties interested in it, the hope is yet indulged that it may be affected on the basis of that proposition."

Now, Sir, I wish to be informed on what this hope of the President rests? What reasonable expectation may be indulged that the British Government will do that hereafter, which for nearly three years past it has refused to do? It is of the utmost importance to the people of both States, that this controversy should be speedily terminated. The existence of it has once threatened the peace of the nation, and, give me leave to say, that these States will not be content much longer, that the question shall remain unsettled.

It may be considered, Mr. Speaker, that to Massachusetts this is a matter only of property and pecuniary interest. Be it so; even in such point of view it would not be a subject of indifference. Her surveys have been arrested, and her sales limited by the pending controversy. A few years since, in common with Maine, she was opening roads, running out townships, and offering for sale large portions of the now disputed territory. Suddenly her operations were interrupted by collisions with British officers, and, in respectful deference to the earnest desire of the national Government, she consented to suspend the exercise of her possessing rights, pending the arbitrement of the boundary.

To the State of Maine, the subject must be vastly more important. The unsettled state of the question, not only affects her revenue from sales of the lands, but arrests the progress of population and improvement. These lands are among the most desirable for settlement. In the quiet enjoyment of them, Maine may look forward to no distant day, when, in numbers and resources, she will be in the front rank of the family of States. Deprived of this territory, she is but of third-rate importance among her sisters of the Union.

1V.

Speech of Mr. Lincoln on the boundary of Maine.



## IV

Speech of Mr. Lincoln on the boundary of Maine.

Under these circumstances, think you, Sir, the States will rest satisfied with longer forbearance? If I know any thing of the people, they will not blindly submit to the contingencies of unrestricted, nor the delay of protracted, negotiation. The legislatures of the States are soon to convene: the subject cannot fail to be with them one of the most earnest and solicitous concern. They will have a right to know what is the prospect of an amicable determination of the boundary; and it is for the purpose of furnishing this information, among other proper motives, that the resolution has been offered.

But it is not merely in this limited and partial view of *state interests*, that the subject-matter of the resolution is to be regarded. It has respect to the integrity of the territory and the sovereignty of the jurisdiction of the country. It reaches to the relations of the General and State Governments, and the guaranty of a republican form of Government to the enjoyment of all the citizens. The inhabitants of the disputed territory are American citizens. They were born under our laws, acquired the title to their possessions under grants from the State Governments, and are entitled to the rights and privileges and protection of freemen. On this debateable ground these very citizens have been molested in their persons and property, by the officers of the provincial Government of New Brunswick. Their substance has been seized for taxes to the British Crown, and their names enrolled for service in the British local militia. The history of the arrest and imprisonment of Baker, in the common jail at Fredericton, not many years since, must be familiar to the gentlemen from Maine, and to the members of this house. Still, more recently, the inhabitants of the town of Madawaska, incorporated by the Government of Maine, and acting under the authority of their incorporation, in attempting to organize their municipality, have been seized upon a charge of sedition against His Majesty's Government, and made to suffer the penalty of the transgression. It has been further represented, I know not how truly, that the British jurisdiction is now extended and practically enforced over a great portion of the disputed territory, in manifest intervention of an express stipulation that neither party, during the attempt at the adjustment of the boundary, should do any act to the prejudice of the rights of the other.

And are not these things matters worthy of inquiry? Is any gentleman in this house well advised of all the facts in the case? Sir, they concern the whole nation. American citizens are not thus to be transferred to a foreign jurisdiction, and degraded from the proud pre-eminence of independent freemen to the servile condition of vassal subjects. Again, I say, if this controversy be not speedily adjusted, the peace of the country will be put in jeopardy—the States will re-assert their possessive rights, surveyors will again be sent forth into the territory, and, if collisions shall ensue, it will behove this Government to see that the rights of her citizens be well maintained in the conflict.

The resolution embraces three propositions—

1. The communication of such correspondence as has been had since the rejection of the opinion of the King of the Netherlands, between the Government of Great Britain and that of the United States, on the subject of the boundary, as, in the opinion of the President, may not be incompatible with the public interest to make public.

2. The President is requested to communicate any information he may possess, in relation to the exercise of practical jurisdiction over the disputed territory. He (Mr. L.) had been informed that the British laws were enforced against the inhabitants dwelling on the debateable ground, while any exercise of authority was denied to officers acting under a commission from the State of Maine.

And 3dly. The resolution asked for the communication of any representations which may have been made by the Government of Maine to the General Government, touching this matter.

Here was the most authentic source of intelligence; and the reply to this part of the enquiry must be of the most satisfactory character. The resolution had been drawn up with every feeling of respect towards the Government, and in all sincerity (said Mr. L.) I can conceive of no possible objection to sending it to the President, for the exercise of his discretion, in furnishing or withholding the information which was sought.

Mr. Parks, in reply, said that the house would by this time perceive that the resolution of the gentleman from Massachusetts was of a most extraordinary character, and the reasons he had assigned for bringing it forward were, he must say, equally extraordinary. The gentleman gives as his reasons why he interferes in a question touching the jurisdiction of another State, that Massachusetts, a part of which he represents on this floor, is interested in the property or ownership of the territory in dispute between the State of Maine and the United States on one side, and Great Britain on the other. It was true that when Maine determined to assume the rank of a free, sovereign, and independent State, she was compelled by her kind guardian mother, Massachusetts, to pay well for her liberty, to purchase her freedom at a high price, by assenting that Massachusetts should be the owner with her in common of the wild lands, then undisposed of, within her territory; but she did not grant to Massachusetts any jurisdiction over the same. Maine will always recollect these circumstances. The last the gentleman from Massachusetts seems to have forgotten, for he now comes forward to ask, as he is pleased to say, as a member from Massachusetts interested in the property, to inquire whether the jurisdiction of Maine has been infringed upon, exhibiting a kind, parental solicitude, as if she had no one on this floor, or in the other house, to watch over her honor or protect her rights; and this too without any instructions from Massachusetts to move at all in the matter. If Massachusetts believes that Maine has violated her faith pledged to her by the solemn act that effected the separation, let her, as a State, call on Maine as a State, each in their sovereign capacities, for a breach of that

compact, for by that compact alone has she any right of ownership in the territory in question, and with that compact this Federal Government has nothing to do. When Maine fails to fulfil any of her obligations, then she will have a right to complain, and to take such measure, as a State, as she may think advisable; but even then she will have no right to come here for redress. The State of Maine is not to be called to the bar of this house to answer for her conduct to Massachusetts. I aver that the gentleman, in the capacity in which he makes this call, viz., as a representative of Massachusetts, has no right, on this floor, to interfere with the question of jurisdiction of Maine within her own limits. Thank God the time has passed by when she has any legal right to interfere in our internal relations, or external either, excepting such as may regard our engagements with herself. But further, Sir, if she desires information upon this matter, she has the materials for it within herself. She has but to call upon her own land agent, and she will get information much more correct and accurate than can be possibly in the possession of any department of this Government. Her land agent traverses every portion of our extensive forests without let, hindrance, or control; he has as many deputies as he chooses to employ, and the honorable gentleman, from the official situation he has for so many years held as the Governor of Massachusetts, must know full well that no individual in this nation has more information upon that branch of his inquiry than the gentleman who so honorably and faithfully fills the office of her land agent. But, Sir, the honorable gentleman goes further, he calls for any correspondence that may have taken place between the Government of Maine and the Government of the United States, upon this same subject of jurisdiction, and this, too, as I understand, likewise in his capacity as a member from Massachusetts. To this, I answer, that to Massachusetts she is not accountable for any thing that may have taken place between her as a State, and the General Government. Whenever Massachusetts, as an individual owner of certain real estates within her limits is injured by any act of conduct of hers, then she, like all other individuals, may seek her remedy from that State; but she must recollect she is but an individual proprietor, having a stake in the soil, and the soil only.

But, Sir, let us suppose that the gentleman quits the position he assumed, as calling for this information as a member of Massachusetts, and that he calls for it in his relation as the representative of a part of the people of the United States on this floor—should it be granted? Neither of the members from Maine have desired it; nay, the honorable gentleman confesses that he did not consult any one of them upon the subject; neither has the Executive desired it, either for its own justification, or for any other purpose. Neither of the parties interested, and only interested, have made any request on the subject; and yet, the gentleman from Massachusetts, out of his abundant regard and solicitude for the interests and honor of Maine (for I can see no other reason,) wishes to know whether the jurisdiction of Maine has been infringed upon, and desires to see (if any) what correspondence has taken place between her and the General Government on the subject. Sir, it seems to me that such curiosity in a stranger to the parties is improper, if it is not officious. Sir, I do not object to this resolution because I fear that in any manner it will (if passed) implicate the honor of the State which, in part, I represent on this floor. I expressly disavow any such feeling. So far as the honor of the State is concerned, I should be perfectly willing to have every act done, every word written, and every thing proposed or intimated by that State, laid open to the world. I fear not that she would suffer by it. I object solely for two reasons; in the first place, that if, as from the President's message, a hope remains of a peaceable adjustment of this perplexing question, a full answer to the resolution would not do good, but might do harm. And secondly, because the call, coming as it does, is derogatory to the State, and to its members upon the floor of this and the other house, and among whom are some of the gentleman's most ardent political friends. I do not understand from the gentleman that he contemplates any legislative action of this house upon the subject, nor, indeed, can I well see how any can be had. If any communications have taken place between the Government of Maine and the General Government, it must be in the character of the latter, as general guarantee to the individual States of their rights and territory, and to the executive in his capacity as a component part of the treaty-making power, through which all attempts at a peaceable adjustment of this controversy must be had. Does this house seek to intrude itself upon that power, and appropriate to itself rights which, by the Constitution are secured to different branches of the Government? But, Sir, I principally oppose the resolution, because uncalled for as it is, either by the Executive Government on the one hand, and the State on the other. This house ought to have too much respect for the rights of States, to countenance this attempt of the gentleman from Massachusetts, the more especially as from his own statement he does not make the call in his capacity as a legislator of the Union, but as a member of Massachusetts; which State, from common civility to her sister State, should have made the call, if necessary, directly upon her. I warn this house to be careful how they justify this course—how they approbate this precedent. I ask what would have been the language of Georgia, for example, if, contrary to either her wishes or that of the General Government, the correspondence of her Executive with the Executive of the Union, had been called for by a member from a different State, wholly uninterested in the matter, what would have been the feelings of that State, or of any other State in the Union? I say, that a precedent for this call, made in this manner, cannot be found in the whole legislative history of this country; and I again warn the real friends of State rights how they countenance it. It is derogatory to every member of both houses of congress from Maine, because it virtually premises that they are forgetful of her honor and interest—

## IV.

Speech of Mr. Lincoln on the boundary of Maine.



## IV.

Speech of Mr. Lincoln on the boundary of Maine.

[Here Mr. Lincoln disavowed any intention of arraigning Maine, or of interfering in any way with her honor or interest.]

I am well aware, Mr. Speaker, that the honorable gentleman expressly disavows any such intent, and I am not the less aware, Sir, that such is the inference that must be drawn from the resolutions, viz.: that the members from Maine are derelict to her honor and interests, and that they have to take wing and lodge themselves under the protecting and fostering care of Massachusetts. The gentleman says, "Would to God I could speak for 'Maine on this floor.'" Mr. Speaker, I well know that Massachusetts has a strong desire to take the benighted people of Maine under her care and protection, and that nothing prevents but the indifference of the people themselves, to profit by so high an honor. I should have thought, Sir, but for the resolution of yesterday, that the people of the State which the gentleman represents, must by this time have learned, by the frequent rejection of their kind offices, and more particularly by the events of the last summer, that the people of Maine consider themselves as of age, and abundantly capable of forming their own opinions on public matters, protecting their own rights and honor, and securing her own best interests. The gentleman says, the honor of Maine is not in his hands. True, Sir, it is not. It is here in the hands of her Senators and Representatives, and when they shall prove recreant to, or insufficient for, the task confided to them, she will recall them, and either send others better fitted for the trust, or, perhaps, call on the gentleman from Massachusetts for aid.

Mr. Speaker, I again repeat that I do not oppose the passage of this resolution, because I fear that any developements that might be made would compromit the honor of my State. I believe it is "above fear and above reproach;" if not—then let her suffer for it. But, Sir, I oppose it, as setting a precedent injurious, as I believe, to State rights, and as being an unauthorized interference in the affairs existing between one of the Sovereign States of this Union and the General Government, which will tend strongly, to say the least, to destroy all that parliamentary courtesy which ought ever to exist on this floor, between the Representatives of the people of different independent communities.

After speeches from several other members, and a reply from Lincoln to Mr. Parks, the house adjourned without coming to any decision on the question before it.

## V.

Report and Resolutions in the House of Representatives of the State  
Maine, on the north-eastern Boundary.—February, 1837.

## V.

*Sir A. Campbell to Lord Glenelg.*

My Lord,

*Fredericton, New Brunswick, March 7, 1837.*

HEREWITH I have the honor to transmit to your Lordship, the copy of a report laid before the House of Representatives of the neighbouring State of Maine, relative to the north-eastern boundary. I also transmit the Royal Gazette of this province, containing a copy of several resolutions passed by the said House on that report.

I have the honor to be, &amp;c.

*The Lord Glenelg.*

(Signed)

ARCH. CAMPBELL.

&amp;c. &amp;c. &amp;c.

Report and Resolutions in the House of Representatives of the State of Maine.

Inclosure.

*Report presented by Mr. Holmes, of Alfred, in the House of Representatives, on the North Eastern Boundary.*

*February 2, 1837.*

THE joint committee to whom was referred so much of the Governor's Message as relates to the north-eastern boundary, and the documents and evidence, together with an order of the two houses instructing the committee "to enquire into the expediency of providing by law for the appointment of commissioners on the part of this State, by the consent of the Government of the United States, to survey the line between this State and the Province of New Brunswick according to the Treaty of 1783, to establish monuments in such places as shall be fixed by said commissioners and by commissioners to be appointed on the part of the Government of Great Britain;" have attended to the duties assigned them with the industry and solicitude which the importance of the subject demanded. Could the committee have spared the time, and had the means to obtain documents not within the jurisdiction of the State, and consequently out of its power, a more clear, methodical, and perfect view of the subject would have been presented. But as there had been hitherto so much procrastination, and the impatience of the public, already great, was becoming more and more intense, your committee, without further preamble or apology, ask leave to present the following

## REPORT.

The legislature and people of Maine, we believe, will not contend that the Treaty making power of the United States, does not extend to a final adjustment of a disputed line of boundary between a State and a foreign nation; although we are fully aware that such a power might deprive a State of its proper domain, yet inasmuch as the President owes his elevation in part to the federative principle, and the States are equally represented in the Senate, and two-thirds of the members present are necessary to the ratification of a Treaty, each frontier State might be pretty safe from any attempt at dismemberment.

The framers of the Constitution, foresaw that the time might come when the States frontier to foreign territory might be in a minority, and that consequently their unity of interest and safety might not avail them, and it was wisely determined that one more than a third might effectually defeat any attempt to dismember a State by Treaty. And this precaution it seems was necessary, since it already occurs that nine only of the twenty-six States are frontier to foreign territory. But we do insist that no power is granted by the Constitution of the United States to limit or change the boundary of a State or cede a part of its territory without its consent. It is even by no means certain how far such consent would enable the treaty authority to exert its power. Citizens might be made the subjects of a treaty transfer, and these citizens, owing allegiance to the State and to the Union, and allegiance and protection being reciprocally binding, the right to transfer a citizen to a foreign Government—to sell him, might well be questioned, as being inconsistent with the spirit of our free institutions. But be this at it may, Maine will never concede the principle, that the President and two-thirds of the Senate can transfer its territory, much less its citizens, without its permission given by its constitutional organs.



Your Committee, however, deem it but fair to admit that they have discovered no inclination in the General Government or any department of it to assume this power. On the contrary, the President has repeatedly declined the adoption of a conventional line deviating from the Treaty of 1783—upon the express ground, that it could not be done without the consent of Maine.

It is due, nevertheless, to the State of Maine to say, that the Committee have no evidence that any conventional line has been proposed to them for their consent. It indeed appears that the consent of Maine had not been given to the adoption of any other boundary than that prescribed by the Treaty of 1783, up to the 29th February, 1836, and we are well assured, that no proposition for a different boundary has since that time been made to any department of the Government of this State.

The President of the United States, on the 15th June last, communicated to the Senate, in compliance with their resolution, a copy of the correspondence relative to the north-eastern boundary. This correspondence embraced a period from the 21st July, 1832, to the 5th March, 1836.

The opinion and advice of the King of the Netherlands, to whom the controversy was referred, by the provisions of the Treaty of Ghent, was made on the 10th January, 1831, and of the three questions submitted, viz.: The north-eastern boundary—the north-westernmost head of Connecticut River,—and the 45th parallel of latitude, he seems to have determined but one. He did decide that the source of the stream running into and through Connecticut Lake is the true north-western head of that river, as intended by the Treaty of 1783;—and as to the rest, he advises that it will be convenient (*il conviendra*) to adopt the “Thalweg” the deepest channel of the St. John’s and St. Francis, from the north line; and that the forty-fifth degree is to be measured in order to mark out the boundary to the St. Lawrence, with a deviation so as to include Rouse’s Point within the United States. As to the convenience of establishing the St. John’s and St. Francis as the northern boundary of Maine, we have only to observe, that however “convenient” it may be to Great Britain to obtain so large a portion of our territory and waters, it would certainly be very inconvenient to us, and inasmuch as we are probably capable of judging of our own “convenience,” and have never solicited the advice of any one on this point, it is scarcely to be expected that we shall be advised to adopt a line, so preposterous and injurious.

It was in this view and in strict conformity with the constitution conferring the Treaty Power, that the President on the 7th December, 1831, submitted to the Senate this “award” and “advice” of the King of the Netherlands. Senators were divided on a principal point, some insisting that to carry the award or opinion into effect was only in execution of the Treaty, and it therefore belonged exclusively to the President “to take care” that this “supreme law” was faithfully executed, or to reject it altogether.

But the prevailing opinion was, that this “award” or “advice” was perfecting an unfinished Treaty, and that therefore it could not be effected by the President without “the advice and consent of the Senate, two-thirds of the members present concurring therein.” So far from the concurrence of two-thirds for the measure, there were thirty-four to eight against it, and it was consequently rejected, and a recommendation to the President was adopted to open a new negotiation to determine the line of boundary according to the Treaty of 1783.

It is insisted by the British Ministers, and almost conceded by ours, that a due north line from the monument at the source of the St. Croix, will intersect no highlands described in the Treaty of 1783. Now this is an assumption, by Great Britain, totally unwarranted by any evidence. The boundaries bearing upon the question are thus given: “From the north-west angle of Nova Scotia, to wit, That angle which is formed by a line drawn due north from the source of the St. Croix River, to the highlands—along the said highlands, which divide the rivers that empty themselves into the St. Lawrence, from those which fall into the Atlantic Ocean, to the north-westernmost head of Connecticut River.”—“East by a line to be drawn along the middle of the River St. Croix, from its mouth in the Bay of Fundy, to its source, and from its source directly north to the aforesaid highlands, which divide the rivers that fall into the Atlantic Ocean, from those which fall into the St. Lawrence.”

The first object, starting place, or *terminus aquo*, is this north-west angle of Nova Scotia. It is the corner of the British Province, designated by themselves. It was presumed, and it is still believed, that they knew the identical spot. We have a right to demand of them to define it. In the Treaty of 1783, they were disposed to define it, and hence they say it is that angle which is formed by a line drawn due north from the source of the St. Croix, to those highlands which divide the rivers that flow into the St. Lawrence, from those which flow into the Atlantic Ocean.

Nothing can be more clear than that the British negotiators of the Treaty of 1783, had reference to their east and west line between Canada and Nova Scotia. This in 1755—6 was matter of controversy between France and England; the French claiming that it was far south, and the British strenuously contending that these very highlands were even more north than we have endeavored to fix them.

The controversy resulted in a war, which, after the capture of Quebec, was terminated by the peace of 1763, whereby Great Britain obtained both sides of the line, and she then established the north line of Nova Scotia about where we contend it should be. So far

from admitting that a due north line from the monument will not intersect the highlands intended by the Treaty of 1783, the State of Maine has always insisted, and still insists, that no known obstacle exists to the ascertaining and accurately defining them, and thus establishing the *terminus aquo*, to wit, the north-west angle of Nova Scotia. It would seem strange indeed, that as this line, so fully discussed and controverted between the English and French in 1755—6, should have been left unsettled still, when both provinces became British. It is impossible to imagine such ignorance of so important a point as this north-west angle, so often referred to, and spoken of as a notorious monument.

The peace of 1783 was considered by Great Britain as a grant by metes and bounds. The boundaries were prescribed, and this north-west angle was the commencement. Twenty years only before this (1763), Nova Scotia had been organized as a distinct province, then including what are now Nova Scotia and New Brunswick,—and this angle was referred to as a boundary without hesitancy or doubt. Indeed the Treaty itself, as if to make assurance doubly sure, fixed it where a due north line from the source of the St. Croix will intersect those highlands which divide the rivers which flow into the River St. Lawrence from those which flow into the Atlantic Ocean. This source of the St. Croix has been determined, and a monument fixed there by the Commissioners under the fifth Article of the Treaty of 1795 (Jay's). Now the assumption that the north line from this monument, will intersect or meet no such highlands, is entirely gratuitous.

The Treaty does not speak of mountains, nor even hills, but of "highlands" that divide rivers flowing different ways. It was well known that rivers did fall into the St. Lawrence and into the Atlantic;—that these rivers would run down and not up, and it was consequently inferred that the land from whence these rivers flowed, must of necessity be high;—and unless there are to be found in that region geological phenomena which exist no where else on the face of the globe, this inference is irresistible.

The truth is, that these highlands have been known and well understood by the British themselves, ever since the grant of James the first, to Sir William Alexander, in 1621. The portion of the boundary there given, which relates to this controversy, is "from the western spring head of the St. Croix by an imaginary line, conceived to run through the land northward to the next road of Ship's River or spring, discharging itself into the Great River of Canada, and proceeding thence eastward along the shores of the sea of the said River of Canada, to the road, haven, or shore, commonly called *gaspeck*"—(*gaspe*.)

The cession of Canada by France made it necessary to define the limits of the province of Quebec, and accordingly His Britannic Majesty, by his Proclamation of 7th Oct. 1763, is thus explicit as to what affects this question—"passing along the highlands which divide the rivers that empty themselves into the said River St. Lawrence, from those which fall into the sea, and also along the north coast of the Bay de Chaleurs, and the coast of the Gulph of the St. Lawrence to Cape Rosiers," &c.

The Act of Parliament of the 14 George III. (1774), defines thus the south line of Canada:—"South by a line from the Bay de Chaleurs along the highlands which divide the rivers that empty themselves into the River St. Lawrence from those which flow into the sea." The north line of the grant to Alexander is from the source of the St. Croix to the "Spring head" or source of some river or stream which falls into the River St. Lawrence, and thence eastward to Gaspe Bay, which communicates with the Gulph of St. Lawrence, in latitude 49. 30., and would make nearly an east and west line. The Proclamation of 1763 defines the south line of the province of Quebec, as passing along the highlands which divide the rivers that fall into the St. Lawrence, from those which fall into the sea, and also along the north coast of the Bay de Chaleurs, to the Gulph of St. Lawrence. This is the south boundary, and consequently in an east and west direction, but it passes north of Bay de Chaleurs, wherefore the south boundary of the province must of necessity be north of Bay de Chaleurs. The eastern boundary is northerly by the Gulph to Cape Rosiers, in about latitude 50, longitude 64, north of Gaspe Bay, and at the mouth of the River St. Lawrence, where it communicates with the gulph or sea. And the Act of Parliament makes this south side from this same bay along those highlands, and it must inevitably run west, or it is no south boundary. Now no one can doubt that, in the Proclamation of 1763, it was the intent to adopt Sir William Alexander's northern, for this southern, boundary of the province of Quebec.

Indeed it appears in every commission to the Governor of Nova Scotia and New Brunswick from 1763 to 1784, and after the Treaty of Peace of 1783, that the province of Nova Scotia extended to the southern boundary of the province of Quebec. It then irresistibly and inevitably follows that a west line from the Bay de Chaleurs intersecting a due north line from the monument is the identical north-west angle. Now a line from Mars Hill direct to Cape Rosiers, instead of being easterly, would be north of northeast crossing the Bay de Chaleurs. But passing along its north coast as the proclamation provides, the line from this Mars Hill must be more northerly still. Indeed the pretence that a pyramidal spur or peak such as this hill should constitute the range of highlands, mentioned in the Treaty, is so utterly visionary that it is entitled to no sort of respect.

We may now, by these facts and reflections give this enquiry a right direction, to wit—to the ascertainment of the north boundary of Nova Scotia, which is the southern boundary of Canada. We have always been lured from this by the British negotiators to the left or west of this north line from the monument.

No one, who is in the least conversant with the subject, can suppose for a moment

V.

Report and Resolutions of the House of Representatives of the State of Maine.



## V.

Report and Resolutions in the House of Representatives of the State of Maine.

that this north-west angle can be found in such a direction. The question for us is, are there any highlands north of the Bay de Chaleurs extending in a western direction towards a north line drawn from the monument. If this line westerly from the Bay be not distinctly marked so far as to interest this north line, the principle is, to extend it in the same direction to the place of intersection; that is, if the line between Nova Scotia and Canada is west, to within say thirty miles of the north line from the monument, and the rest of the way is indefinite or obscure, extend it on, in the same direction, until you form a point of intersection, and this will be the north-west angle of Nova Scotia. But the truth is the highlands are there, and have been found in running due north from the monument.

The elevations were taken by the British surveyor from the source of the St. Croix, at the monument to the first waters of the Restigouche; and at Mars Hill forty miles—the summit of this isolated sugar-loaf was eleven hundred feet, and at the termination of the survey at the Ristigouche waters, one hundred miles further, the elevation was sixteen hundred feet, consequently the summit of Mars Hill, eleven hundred feet above the waters of the St. Croix, is five hundred feet lower than the lands at the Ristigouche, and yet the pretence is that there are no highlands, but this detached spur, Mars Hill! Still further, the highest position surveyed, is nearly fifty miles short of the Metis, which falls into the St. Lawrence and we do not perceive that the elevations have been taken there at all; but we do find, it is here that the waters separate, and consequently the land must be still higher.

In failure of highlands (assumed not to exist) the British negotiators claim a line, which instead of dividing the St. Lawrence and Atlantic waters would actually extend between two rivers, both of which fall into the Atlantic.

To say nothing of the absurdity, not to say arrogance, of such a claim, it is enough that it is in the teeth of the Treaty itself. It is painful to repeat the argument that no other highlands were intended, for all others were expressly excluded, but those which divide the waters that flow in those different directions. The effect of their construction, as we all know, is to give them the whole of the St. John, with all its tributaries and a tract of territory south of that river, equal at least to seventy-five miles square.

Whether from the peaceful spirit of our Government, the Christian patience of Maine, or the “modest assurance” of the British negotiators, any or all, certain it is, that His Britannic Majesty’s pretensions are growing every day. It is not only an after-thought, but one very recently conceived, that we were to be driven south of the St. John.

His Britannic Majesty’s agent (Mr. Chipman) who has been lately urging us south of that river, was also agent to the commission under the Treaty of 1795, to ascertain the true St. Croix, and in insisting on a more western branch of this river, gives as a reason, that a line due north will cross the St. Johns further up, whereas, if you take an eastern branch, such line will cross near Fredericton, the seat of Government of New Brunswick, and materially infringe upon His Majesty’s province. He not only admits, but contends, that this north line must cross the river. Here are his words: “This north line must of necessity cross the river St. Johns.” Mr. Liston, British Minister, in a private letter to Mr. Chipman of 23rd October, 1798, recommends a modification of the powers of the commissioners, for the reason, that it might give Great Britain a greater extent of navigation on the St. Johns River. The same agent (Mr. Chipman) was also agent under the fourth article of the Treaty of Ghent, and we find him contending there, that the north-west angle of Nova Scotia is the same designated in the grant to Sir Wm. Alexander, in 1621, “subject only to such alterations as were occasioned by the erection of the province of Quebec, in 1763.” Now we have already seen that this south line of the province of Quebec, so far from altering this north-west angle, in fact confirms it.

In perfect accordance with this disposition to encroach, is a proposition of the British Minister (Mr. Vaughan,) that inasmuch as the highlands cannot be found, by a due north direction from the monument, we should vary west until we should intersect them, but not east! Now that, in case a monument cannot be found in the course prescribed you should look for it, at the left, but not to the right, seems to us a very sinister proposition. We have shewn, and, as we think conclusively, that the range of highlands is to be looked for on British ground and no where else; because it is their own boundary, and a line which must, with an ascertained north line, form the angle of one of their own provinces. And yet we are not to examine there at all, we have never explored the country there, and are expected to yield to such arrogant, extravagant, and baseless pretensions!

We would ask, why? in what justice, if we cannot find the object in the route prescribed, are we to be thus trammelled? where is the reciprocity of such a proposition, so degrading to the dignity, and insulting to the rights and liberties of the State? No, the people of Maine will not now, and we trust they never will, tamely submit to such a one-sided measure.

The next restriction or limitation, with which this negotiation is to be clogged, is an admission that the Ristigouche and St. Johns are not Atlantic Rivers—because one flows into the Bay de Chaleurs and the other into the Bay of Fundy—yet neither falls into the River St. Lawrence. They would then find those highlands between the St. Johns and the Penobscot. There cannot be a more arrogant pretension or palpable absurdity. Suppose the waters of both these rivers are excluded, as flowing neither way, still the waters that flow each way are so far separated as to leave a tract of country which, if equally

divided, would carry us far beyond the St. Johns. But we admit no such hypothesis. The Atlantic and the sea are used in the charters as synonymous terms. The Ristigouche uniting with the Bay de Chaleurs, which communicates with the sea, and the St. Johns uniting with the Bay of Fundy, which also communicates with the sea, and that too by a mouth ninety miles wide, are both Atlantic Rivers. These rivers were known by the negotiators not to be St. Lawrence Rivers, they were known to exist, for they were rivers of the first class. If they were neither St. Lawrence nor Atlantic why were they not excepted? They were not of the former, therefore they must be included in the latter description. Indeed if rivers uniting with Atlantic Bays are not Atlantic Rivers, the Penobscot and Kennebec, which unite with the respective Bays of Penobscot and Sagadahock, would not be Atlantic Rivers; and then where are those highlands which divide the waters referred to in the Treaty of 1783? Should we leave this question unsettled a little longer and the British claims continue to increase, we might very soon find these highlands south of the Connecticut and all the intermediate country would be recolonized by "construction." We therefore invoke the sympathy of all New England with New York besides, to unite against this progressive claim—this avalanche which threatens to overwhelm them as well as ourselves.

Again, if this Mars Hill (and we confess we cannot speak of the pretension with any patience) is the north-west angle, and the north boundary of Nova Scotia and the south boundary of the Province of Quebec are the same and north of the Bay de Chaleurs, then there is indeed no north-west angle; for a line, due north from the monument passing by Mars Hill, must pursue nearly the same direction to get to the north of that Bay without crossing it; and who ever thought of an angle at the side of a continuous line? Now according to the British maps, taken in this very case, you must run a course of north about fourteen degrees east to obtain the north side of the bay without crossing it, and the distance would be, in this almost due north direction, more than one hundred miles—while that from the monument to Mar's Hill would be little more than forty. Now when we consider that this northerly line must form nearly a right angle to pass along the north shore of the Bay de Chaleurs, that this is one hundred miles further north than Mar's Hill, where, instead of an angle, there can be only an inclination of fourteen degrees, can there be a greater absurdity than the British claim founded on these facts?

We will now present some facts and remarks in regard to the surveys and explorings made by the commission under the fifth article of the Treaty of Ghent. And the first fact that occurs is, that the elevations taken by the British surveyor, stop far short of where the waters divide, and we find no proof that these elevations were carried through by our own surveyors. If the British surveyor, after ascertaining he was still ascending, and had in fact arrived at the lands at a branch of a river elevated 500 feet even above the summit of Mar's Hill, found it prudent to stop short, we see no good reason why the American agent did not proceed on and take accurate elevations, at a place where the waters divide. If such a survey was made, the committee have not been able to obtain the evidence—it is not in the maps or documents in the library or office of the Secretary of State, and the committee believe that no such elevations have been taken northerly of the first waters of the Ristigouche. It is indeed a little singular that we have so little evidence, not only in regard to this height of land, but also of the rivers which flow into the St. Lawrence to the left, and especially to the right, of the north line from the monument.

We know some of them, to be sure, such as the Ouelle Kamouska, Verte, Trois Pistoles, Remouskey, and Metis, on the left, and the Blanche, Louis, Magdalen, and others on the right of this line, but we know them chiefly as on maps, and as transcribed from older maps—but very little from actual survey or even exploration. An examination of the sources of those rivers at the right of this north line, with the important natural boundary—the north shore of the Bay de Chaleurs would accurately define the divisional line, between the province of Quebec and Nova Scotia, which extending west, would intersect the due north line and thus form the north-west angle of Nova Scotia.

It moreover appears that little or no exploration has been made of the lands east of the due north line. It seems strange to us, although it may be satisfactorily explained, why we should have been drawn away from this very important region. It is indeed the true source of enquiry. In this direction the evidence is to be found; and Maine can never be satisfied until it is looked for here.

An extraordinary method of adjusting this question, though in perfect accordance with other pretensions, has been proposed by Great Britain—that the disputed territory should be divided in equal portions, each party being satisfied of the justice of its claims. To this proposition we cannot subscribe. It is equally unjust between nations and individuals. Whether a party in controversy is satisfied or not with the justice of his claims, is what is only known to himself, and consequently the one whose claims are most exorbitant, however unjust, will always get the best end of the bargain. But such a rule would in this case apply most unfortunately to Maine. We are limited at farthest to the St. Lawrence, and to a very narrow point there—while the British may extend their claims to the south and west indefinitely. Establish this principle, and we shall soon find their claims, already so progressive, stretched over to the Piscataqua, and then if we are to divide equally, both as to quantity and quality, the divisional line would then fall south of the Kennebec. If the want of the consent of Maine is the obstacle to such an adjustment, we trust it will always remain an insuperable one. Indeed, we protest against the application to us, of such a rule, as manifestly unequal and unjust.

V.

Report and Resolutions in the House of Representatives of the State of Maine.



v.

Report and Resolutions in the House of Representatives of the State of Maine.

We come now to the recent transactions of the British colonial authorities, sanctioned, as it appears, by the Government at home—and we regret to perceive in them also those strong indications of continual and rapid encroachment, which have characterised that Government in the whole of this controversy. Mr. Livingston in his letter of July 21, 1832, proposes that “until the matter be brought to a final conclusion both parties should refrain from the exercise of ‘jurisdiction,’” and Mr. Vaughan in reply, of April 14, 1833, in behalf of his Government “entirely concurs.”—Here then the faith of the two Governments is pledged to abstain from acts of jurisdiction until all is settled. Now, how are the facts? We understand and indeed it appears by documents herewith exhibited, that an act has passed the Legislature of New Brunswick, “incorporating the St. Andrews and Quebec Rail-road Company,” that the King has granted £10,000. to aid the enterprise, and that the Legislature of Lower Canada, by its resolutions of both houses, has approved the scheme and promised its co-operation. It may be, that the Government at home was not aware that this rail-road must inevitably cross the disputed territory.

But this ignorance of the subject seems incredible. A rail-road from St. Andrews to Quebec would be impossible, unless it crossed the territory in question. Even next to impossible and totally useless, were it to pass at the north of the St. Johns. It seems therefore extraordinary indeed that the British Government, even in the incipient stages of this enterprise, should make an appropriation which is in direct violation of its solemn pledge. To give to a rail-road corporation powers over our rights and property, is the strongest act of sovereignty. It is an act of delegated power which we ourselves give to our own citizens with extreme caution, and with guarded restrictions and reservations. This rail-road must not only cross the disputed territory, but it crosses it fifty miles south of the St. John's, and almost to the southerly extremity of the British claim, extravagant as it is. By the map herewith exhibited, of the survey of the route, it appears that the road crosses our due north line at Mars Hill, thence doubling round it, toward the south, it crosses the Roostic between the great and little Machias, the Alleguash at the out-let of first Lake, a branch of the St. Johns, south of Black River, and passes into Canada between Spruce Hills on the right and Three Hills on the left, thus crossing a tract of country south of the St. Johns one hundred by fifty miles. We have not a copy of the Act of Incorporation of New Brunswick, and cannot therefore say that the route there defined is the same as on the map. But be this as it may, certain it is, as any one will see, that no possible route can be devised which will not cross the territory in question. It is then a deliberate act of power, palpable and direct, claiming and exercising sovereignty far south even of the line recommended by the King of the Netherlands.

In all our enquiries and examinations of this subject there has been great negligence in regard to this north-west angle. Judge Benson, one of the commissioners under Jay's Treaty, in a letter to the President of the United States expressly and clearly defines this angle. He states distinctly that the due north line from the source of the St. Croix is the west side line, and the highlands are the north side line which form this angle, and this had never been questioned by the British themselves.

This due north line—viz. the west side line, was established by the commission of which Judge Benson was a member, and the British have made the north side line to be north of the Bay de Chaleurs, and yet with these postulates to pretend that the points of intersection cannot be found, is one of the greatest of their absurdities. And another absurdity quite equal is, that after passing west along the north shore of this bay, they would fall down nearly south more than one hundred miles to Mars Hill, about sixty miles from the south shore of the province at the Bay of Passamaquoddy, which is part of the Bay of Fundy; and this point too of so little inclination, that it is a palpable perversion of language to call it an angle, much more a north-west angle.

It is indeed time for us to begin to search and in the right places too, in order to put a stop to these perpetual encroachments upon our territory and rights. Our first object should be to ascertain and trace the north boundary of Nova Scotia which is the south boundary of the province of Quebec, and see if Canada comes as far down as Mars Hill. And we should proceed to finish taking the elevations on the due north line to some point where the waters divide. The General Government should be immediately called on to execute the work with the co-operation of Massachusetts and Maine. Notice should be given to the British authorities to unite in the undertaking, and if they refuse, our Government ought to proceed *ex parte*. The act would be entirely pacific, as the object would be to ascertain facts, much more pacific than the survey, without notice, of the St. Andrews and Quebec rail-road, through our territory, not for the purpose of ascertaining a boundary, but to assume jurisdiction.

Your committee have gone through this tedious investigation with all the deliberation, exactness and candour, which our time, means, and feelings would allow. Our animadversions may, in some instances, have been strong and even severe, but we think we have expressed the sentiments and feelings of the people of Maine suffering under protracted injuries. The State should take a firm, deliberate, and dignified stand, and one which it would not retract. While it awards to the General Government all its legitimate powers it will not be forgetful of its own. We call upon the President and Congress, we invoke that aid and sympathy of our sister States, which Maine has always accorded to them; we ask, nay we demand, in the name of justice, how long we are to be thus trampled

down by a foreign people? and we trust we shall meet a cordial and patriotic response in the heart of every republican of the Union. Your committee, therefore, submit the following resolutions.

L. J. HAM,  
NATHANIEL S. LITTLEFIELD,  
SAM'L P. BENSON,  
EBEN'R HIGGINS,  
JOHN R. REDMAN,

Of the Senate.

JOHN HOLMES,  
J. A. LOWELL,  
NATHAN IDE,  
DANIEL SMALL,  
SEWALL PRESCOTT,  
EPHRAIM WEEKS,  
JAMES BURBANK,  
CHARLES HUNT,  
JOHN D. RICHARDS,

Of the House.

Report and Resolutions in the House of Representatives of the State of Maine.

### STATE OF MAINE.

#### *Resolves relative to the north-eastern Boundary.*

1st. Resolved,—That we view with much solicitude the British usurpations and encroachments on the north-eastern part of the territory of this State.

2d. Resolved,—That pretensions so groundless and extravagant indicate a spirit of hostility, which we have had no reason to expect from a nation with whom we are at peace.

3d. Resolved,—That vigilance, resolution, firmness, and union on the part of this State, are necessary in this state of the controversy.

4th. Resolved,—That the Governor be authorized and requested to call on the President of the United States to cause the north-eastern boundary of this State to be explored and surveyed, and monuments erected according to the Treaty of 1783.

5th. Resolved,—That the co-operation of Massachusetts be requested.

6th. Resolved,—That our senators in congress be instructed, and our representatives requested, to endeavor to obtain a speedy adjustment of the controversy.

7th. Resolved,—That copies of this report and resolutions, be transmitted to the Governor of Massachusetts, the President of the United States, to each of our senators and representatives in congress, and other senators in congress, and the governors of the several States.





## VI.

## Correspondence respecting a projected Railway, between the Cities of Quebec and St. Andrews, through a portion of the Disputed Territory.—1837.

No. 1.—*Henry S. Fox, Esq. to Viscount Palmerston.*—(Received April 24.)

(Extract.)

*Washington, March 29, 1837.*

THE United States Government are informed that it is projected to construct a railroad between the city of Quebec and the city of St. Andrews, in New Brunswick, and that the project has been, to some extent, patronized and sanctioned by the legislatures and civil authorities of Canada, New Brunswick, and Nova Scotia. It is alleged that the line of this railroad is destined to traverse the territory at present in dispute between the two countries. The President of the United States, therefore, distinctly protests against the prosecution of the work, as an encroachment upon the American rights, and an unwarrantable assumption, by the British Colonial authorities, of the claim in dispute; and he calls upon His Majesty's Government to use such means as may appear proper for suspending the enterprize in question, during the continuance of the pending amicable negotiations respecting the north-eastern boundary.

As I am, of course, not acquainted with the views and wishes of His Majesty's Government upon the above subject, I have, in the inclosed reply to Mr. Forsyth, simply acknowledged the receipt of his note, and undertaken to convey the same immediately to your Lordship's knowledge. I have, at the same time, judged it expedient to communicate Mr. Forsyth's note, confidentially, to the Governors of Canada, New Brunswick, and Nova Scotia, in order that they may be enabled, without the loss of time required by reference from home, to transmit to His Majesty's Government such observations as the statements contained in that note may suggest to them, with such local information as may put His Majesty's Government fairly in possession of the facts of the case. I have also requested His Majesty's Governors of the aforesaid provinces to favour me with their respective opinions and views upon the same subject, for my own information; but I shall abstain from entering into any official discussion of the question with the United States' Government, without precise instructions from your Lordship.

VI.

Correspondence  
respecting project-  
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the disputed terri-  
tory.

Inclosure 1. in No. 1.

*The Hon. John Forsyth to Henry S. Fox, Esq.**Department of State, Washington, March 23, 1837.*

THE Undersigned, &c., has the honor by direction of the President to invite the attention of Mr. Fox, &c., to a subject which, from its high importance, demands the prompt consideration of His Majesty's Government.

It appears from representations and documents recently received at the Department of State, that a number of the inhabitants of the town of St. Andrews in New Brunswick, associated themselves together, in the year 1835, by the name of the St. Andrews and Quebec Railroad Association, for the purpose of bringing into public notice the practicability of constructing a railway between those ports, and that sundry resolutions were passed in furtherance of this object, and that the project was sanctioned and patronized by the Governor in Chief of British North America,—the Lieutenant-Governors of New Brunswick and Nova Scotia,—and the Legislatures and people of Lower Canada and New Brunswick. That the route of the proposed railroad had been explored as far as the head waters of St. Johns river, by surveyors employed by the Association. That an Act has actually passed the Legislature of New Brunswick, incorporating this Company, and that a similar Act was expected to be passed in Lower Canada; that letters were addressed to the Boards of Trade, of Quebec and Montreal, requesting their co-operation,—that these communications were favorably received, and that petitions had been forwarded to His Britannic Majesty, signed by committees of the Association, and by inhabitants of the cities of Quebec and Montreal, soliciting the construction of a railway between the ports above named, or the extension of royal aid and protection to the petitioners in the proposed undertaking.

Without allowing himself to believe for a moment that His Britannic Majesty's Government will, in any manner, countenance the projected railroad from St. Andrews to Quebec, when the slightest inspection of the map of the country which it crosses, will shew that its intended location would be, for a great portion of the route, an encroachment upon the territory in dispute, between the United States and Great Britain,—the President yet sees cause for great surprise and deep regret in the fact, that the civil authorities of His Majesty's Provinces on our north-eastern borders, should have lent their encouragement to, or should, in anywise have promoted an undertaking which, if persevered in, will inevitably lead to the most disastrous consequences.



## VI.

Correspondence  
respecting project-  
ed Railway through  
the disputed terri-  
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The object of the Association from its inception was objectionable, since it could only be effected by entering upon territory, the title to which was controverted and unsettled, a proceeding which could not fail to be offensive to the Government and people of the United States. Still more unjustifiable was the act of Sovereignty giving to this Company corporate powers, over property known to be claimed by citizens of a friendly and neighboring State, and which constituted at the time, the subject of an amicable negotiation, between the Government of His Majesty and that of the United States. The President regrets to see in this step, on the part of His Majesty's Provincial authorities and subjects, a most exceptionable departure from the principle of continuing to abstain, during the progress of negotiation, from any extension of the exercise of jurisdiction within the disputed territory, on either side, the propriety of which has been hitherto so sedulously inculcated, and so distinctly acquiesced in by both parties. An understanding that this principle should be observed by them, was the natural result of the respective positions, and pacific intentions of the two Governments, and could alone prevent the exercise of asserted rights by force. Without it the end of all negotiation on the subject would have been defeated. If therefore nothing had been said by either party relative to such an understanding, it would have been proper to infer that a tacit agreement to that effect existed between the Governments. But the correspondence between them is sufficiently full and explicit to prevent all misconception. The views of both Governments in respect to it, will be found in the letters of the Secretary of State to the Minister of Great Britain, dated the 18th of January, 1826;—9th January, 11th March, and 11th May, 1829;—and of the British Minister to the Secretary of State, dated 15th November, and 2nd December, 1825;—the 16th of January, 1827; 18th February, and 25th March, 1828;—and 14th of April, 1833;—as well as in other communications, which it is deemed needless now to designate.

The Undersigned is directed by the President to inform Mr. Fox, that the prosecution of the enterprise above referred to, will be regarded by this Government, as a deliberate infringement of the rights of the United States to the territory in question, and as an unwarrantable assumption of jurisdiction therein by the British Government: and the Undersigned is instructed to urge the prompt adoption of such measures as may be deemed most appropriate by His Majesty's Government to suspend any further movements in the execution of the proposed railroad from St. Andrews to Quebec, during the continuance of the pending negotiations between the two Governments, relative to the north-eastern boundary of the United States.

The Undersigned, &c.,  
*Henry S. Fox, Esq.* (Signed) JOHN FORSYTH.  
&c. &c. &c.

## Inclosure 2 in No. 1.

*Henry S. Fox, Esq. to the Hon. John Forsyth.*

Sir,

*Washington, March 28, 1837.*

THE Undersigned, &c. has had the honour to receive the official note addressed to him, under date of the 23d instant, by Mr. Forsyth, &c. upon the subject of information received by the United States' Government, of a projected railroad between the cities of Quebec and St. Andrews, and upon certain other matters connected with the question of the boundary line between the United States and the British possessions in North America.

The Undersigned, in accordance with the wishes of the President, signified in Mr. Forsyth's official note, will not fail immediately to convey that note to the knowledge of his Government at home, and he entertains no doubt that His Majesty's Government will proceed to the consideration of the several matters therein contained, with the serious and ready attention that their importance deserves.

The Undersigned avails himself, &c.  
*The Hon. John Forsyth.* (Signed) H. S. FOX.  
&c. &c. &c.

## No. 2.—Viscount Palmerston to Henry S. Fox, Esq.

Sir,

*Foreign Office, July 5, 1837.*

I HEREWITH transmit to you for your information and guidance, a copy of a letter which I directed to be addressed to the Colonial Department on the subject of your despatch of the 29th of March last, and also a copy of the answer of that department, in which is transmitted a draft of an instruction which Lord Glenelg has addressed to the Earl of Gosford on the same subject.

I am, &c.  
*Henry S. Fox, Esq.* (Signed) PALMERSTON.  
&c. &c. &c.

## Inclosure 1 in No. 2.

*John Backhouse, Esq. to J. Stephen, Esq.*

VI.

Correspondence  
respecting project-  
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the disputed terr  
itory.

Sir,

*Foreign Office, May 10, 1837.*

I AM directed by Viscount Palmerston, to transmit to you a Copy of a Despatch from Mr. Fox, His Majesty's Minister at Washington, inclosing a copy of an official Note which he had received from Mr. Forsyth, Secretary of State of the United States of America, upon important subjects connected with the question of the boundary line between the United States and His Majesty's possessions in North America.

I am to request that you will lay these papers before Lord Glenelg for his Lordship's consideration.

*J. Stephen, Esq.*  
&c. &c. &c.

I am, &c.,  
(Signed) J. BACKHOUSE.

## Inclosure 2 in No. 2.

*J. Stephen, Esq. to John Backhouse, Esq.*

Sir,

*Downing Street, June 2, 1837.*

I AM directed by Lord Glenelg to acknowledge the receipt of your letter of the 10th instant, inclosing copies of a correspondence which has passed between His Majesty's Minister at Washington, and the Secretary of State of the United States on subjects connected with the boundary question, and more especially with reference to the proposed rail-road between Quebec and St. Andrews.

It appears to Lord Glenelg, that under all the circumstances of the question, it would be impossible for His Majesty's Government to resist the protest of the Government of the United States, and he has accordingly directed an instruction to be prepared for the Earl of Gosford and Sir John Harvey, of which the inclosed is a copy.

*John Backhouse, Esq.*  
&c. &c. &c.

I have, &c.  
(Signed) JAS. STEPHEN.

## Inclosure 3 in No. 2.

*Lord Glenelg to the Earl of Gosford.*

My Lord,

*Downing Street, June, 1837.*

I HAVE the honor to inclose to you herewith a copy of a letter addressed to this Department by direction of Viscount Palmerston, containing a correspondence between His Majesty's Minister at Washington, and the Secretary of State of the United States, on subjects connected with the adjustment of the boundary line, and more especially with reference to the proposed railroad between Quebec and St. Andrews in New Brunswick. You will observe that the Government of the United States distinctly protest against any further progress in that undertaking, on the ground that it would be an infringement of the agreement at present subsisting between the two countries in regard to the disputed territory.

His Majesty's Ministers do not attempt to deny the force of this objection, and much as they regret any obstacle to an undertaking which promised such advantageous results, they cannot sanction any further progress in it, in opposition to the express remonstrance of the Government of the United States.

Anxious, therefore, to act towards that Government in a spirit of the utmost fairness and conciliation, His Majesty commands me to instruct your Lordship to take the most effectual measures for preventing any infringement on the disputed territory by His Majesty's subjects in Lower Canada.

*The Earl of Gosford.*  
&c. &c. &c.

I have, &c.  
(Signed) GLENELG.

No. 3.—*Henry S. Fox, Esq. to Viscount Palmerston.*

My Lord,

*Washington, November 24, 1837.*

AFTER receiving your Lordship's despatch, of the 5th of July, conveying to me the decision of Her Majesty's Government, with reference to the projected railroad between the city of Quebec and the city of St. Andrews, in New Brunswick; I verbally communicated that decision to the United States' Secretary of State, Mr. Forsyth. The President, shortly afterwards, personally requested me to make the same communication in writing,



## VI.

Correspondence  
respecting project-  
ed Railway through  
the disputed terri-  
tory.

as it would be satisfactory to him, he said, to be enabled to transmit the information in the same form to Maine, where a knowledge of the favourable result of the representation from his country upon the subject of the railroad, would tend to allay the irritation then recently excited by the arrest and imprisonment of Ebenezer Greely. The President at the same time expressed to me his satisfaction at the ready and obliging manner in which He Majesty's Government had been pleased to listen to the remonstrance which he had found it his duty to address to them. Although I was not formally instructed by your Lordship to make such a communication in writing, I considered myself justified, under the circumstances of the case, in complying with the personal request of the President, more especially as the further overture which your Lordship directed me to make, respecting the projected railroad, presupposed a knowledge by the American Government of a relinquishment of the project in the first instance, on the part of Great Britain. I accordingly addressed to Mr. Forsyth the short notification, which I have herewith the honour to inclose.

I have the honour to be, &c.

Viscount Palmerston, G.C.B.  
&c. &c. &c.

(Signed)

H. S. FOX.

Inclosure in No. 3.

*Henry Fox, Esq., to the Hon. John Forsyth.*

Sir,

*Washington, August 24, 1837.*

WITH reference to the official note, which by direction of the President you addressed to me on the 23rd of March last, respecting the projected railroad between the cities of Quebec and St. Andrews, which, it was apprehended would, if carried into effect, traverse a part of the territory at present in dispute between Great Britain and the United States, I am now enabled to inform you, that in consideration of the arguments and observations contained in your note, Her Majesty's Government has been pleased to direct the colonial authorities of Lower Canada and New Brunswick respectively, to cause all operations connected with the above mentioned project, within the limits of the disputed territory to be immediately discontinued.

I have the honour to be, &c.

(Signed)

H. S. FOX.

*The Hon. John Forsyth,*  
&c. &c. &c.

## VII.

## Further attempts of the Authorities of the State of Maine to exercise Jurisdiction within the Disputed Territory.

## FIRST MISSION OF EBENEZER GREELY.

No. 1.—*A. Stevenson, Esq., to Viscount Palmerston.*—(Received August 12.)

23, Portland Place, August 10, 1837.

THE Undersigned, Envoy-Extraordinary, and Minister-Plenipotentiary from the United States, has the honor, in pursuance of instructions from his Government, to transmit to Lord Palmerston, Her Majesty's Principal Secretary of State for Foreign Affairs, copies of sundry official documents, detailing the circumstances under which a most unwarrantable outrage has recently been committed, by the authorities of the province of New Brunswick, upon the rights and liberty of a citizen of the United States.

From these papers it appears that Ebenezer S. Greely, a citizen of the State of Maine, was duly appointed for the purpose of taking an enumeration of the inhabitants of that State under an Act of its Legislature.

That on the 6th of June last, whilst Mr. Greely was employed in performing this duty, and taking down the names of the inhabitants residing in that part of the disputed territory claimed by the United States, as lying within the limits of Maine, he was forcibly arrested by the authorities of New Brunswick, immediately transported in custody to the town of Fredericton, and imprisoned in the public gaol, where he still remains. This proceeding by the authorities of New Brunswick having produced, as might justly have been expected, very deep excitement in Maine, was followed by an immediate appeal from the Governor of that State to the Government of the United States, for intervention and redress.

This application on the part of Maine, having received the special consideration of the President, the Undersigned has been instructed to lose no time in presenting the subject to the early and earnest attention of Her Majesty's Government, and demanding not only the immediate liberation of Mr. Greely from imprisonment, but indemnity for the injuries which he has sustained.

In fulfilling these instructions of his Government, it is not the purpose of the Undersigned to open the general discussion of the respective claims of Great Britain and the United States to the disputed territory, (within which Mr. Greely was arrested,) or the right of either Government to exercise exclusive jurisdiction within its limits. Whatever opinion the Undersigned may entertain as to the rightful claim of the State of Maine to the territory in dispute, and however unanswerable he may regard the arguments by which the claim may be sustained, he deems it neither proper or needful to urge them upon the consideration of Her Majesty's Government, in the discussion of the present case, more especially as the whole subject is elsewhere and in another form matter of negotiation between the two Governments, where the discussion of the question of right more appropriately belongs.

The Undersigned, moreover, does not presume, that pending the negotiation, and whilst efforts are making for the peaceable and final adjustment of these delicate and exciting questions, Her Majesty's Government can claim the right of exclusive jurisdiction and sovereignty over the disputed territory, or the persons residing within its limits. In such a claim of power, on the part of Great Britain, or its provincial authorities,—the Undersigned need not repeat to Lord Palmerston, what he is already fully apprized of—the Government of the United States can never consent to acquiesce, in the existing state of the controversy. On the contrary, the mutual understanding which exists between the two Governments on the subject, and the moderation which both Governments have heretofore manifested, forbids the exercise by either of such high acts of sovereign power as that which has been exerted in the present case by the authorities of Her Majesty's Provincial Government.

The Undersigned must therefore suppose that this arrest and imprisonment of an American citizen under such circumstances, and in the existing state of the controversy could only have been justified by some supposed infringement of the understanding existing between the parties in relation to the question of jurisdiction within the limits of the disputed territory. Such, however, was not the case. The correspondence between the Governor of Maine and the Lieutenant-Governor of New Brunswick shows, that the only act done by Mr. Greely was the simple enumeration of the inhabitants, and it is not perceived how such an act could be construed into a breach of the understanding between the two Governments.

## VII.

Further attempt of Maine to exercise jurisdiction in the disputed territory.

First Mission of Ebenezer Greely.



## VII.

Further attempt of  
Maine to exercise  
jurisdiction in the  
disputed territory.

First Mission of  
Ebenezer Greely.

It is proper also to remark, that this was not the first time that the inhabitants of this particular settlement had been enumerated under the authority of the United States. It was done in the census of 1820, as a portion of the State of Maine, and was at the time neither objected to or remonstrated against by the British Government, or that of New Brunswick.

Wherever then the right of jurisdiction and sovereignty may dwell, the Undersigned feels satisfied that Her Majesty's Government cannot fail to perceive that the arrest and imprisonment of Mr. Greely under the circumstances of this case, was not only a violation of the rights of the United States, but was wholly irreconcilable with that moderation and forbearance which it is peculiarly the duty of both Governments to maintain until the question of right shall be definitively settled.

It becomes the duty of the Undersigned therefore, in pursuance of special instructions from His Government, to invite the early and favourable consideration of Her Majesty's Government to the subject, and to the demand as a matter of justice and right, the immediate discharge of Mr. Greely from imprisonment, and a suitable indemnity for the wrongs he has sustained.

Before closing this note, the Undersigned will avail himself of this occasion to remind Lord Palmerston of the urgency which exists for the immediate and final adjustment of this long pending controversy, and the increased obstructions which will be thrown in the way of its harmonious settlement, by these repeated collisions of authority and the exercise of exclusive jurisdiction by either within the disputed territory.

He begs leave also to repeat to his Lordship, assurances of the earnest and unabated desire which the President feels, that the controversy should be speedily and amicably settled, and to express the anxiety with which the Government of the United States is waiting the promised decision of Her Majesty's Government upon the proposition submitted to it as far back as July, 1836, and which the Undersigned had been led to believe would long since have been given; and he has been further directed to say, that should that proposition be disapproved, the President entertains the hope that some new one on the part of Her Majesty's Government will immediately be made for the final and favorable termination of this protracted and deeply exciting controversy.

The Undersigned prays Lord Palmerston to receive renewed assurances of his distinguished consideration.

Viscount Palmerston, G.C.B.,  
&c. &c. &c.

A. STEVENSON.

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Inclosure 1 in No. 1.

*The Governor of the State of Maine to the Executive Department, July 3, 1837.*

Sir,

*Augusta, June 27, 1837.*

I LOSE no time in communicating to your Excellency a copy of a letter from Sir John Harvey, Lieut.-Governor of the Province of New Brunswick, and also of a letter from J. A. McLaughlan to Sir John Harvey, in relation to the arrest and imprisonment of Ebenezer S. Greely.

I have the honor to be, &c.,

*His Excellency Martin Van Buren,*  
&c. &c. &c.

(Signed) ROBERT P. DUNLAP.

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Inclosure 2 in No. 1.

*The Governor of the State of Maine to the Secretary of State.*

(Extract)

*State of Maine, Executive Department, July 3, 1837.*

On the eighth day of March last, the Legislature of this State passed an Act relative to the surplus revenue, a copy of which is inclosed, to the eleventh, twelfth, and thirteenth Sections of which I beg leave to refer your attention. An additional Act was passed on the 29th day of March last, a copy of which I also inclose.

By this last-named Act, it became the duty of the county Commissioners of Penobscot county, to cause an enumeration to be taken of the inhabitants of said county residing north of the surveyed and located townships. The tract thus defined, comprised the town of Madawaska which was incorporated by this State on the 15th of March, 1831.

Pursuant to that requirement, the county commissioners of said county appointed Ebenezer S. Greely to perform that service, and being duly commissioned, he forthwith proceeded to the place designated, and entered upon the required operations. Being thus employed, he was on the 29th of May last, arrested by the authorities of the province of New Brunswick, and conveyed to Woodstock, in the county of Charleston in said province: but the Sheriff of the county refused to commit him to gaol, and he was accordingly discharged. He immediately returned to the Madawaska settlement to enter again upon the duty entrusted to him. On the sixth of June last, he was arrested a second time by the same authorities, and committed to the gaol at Fredericton.

It was for this act of obedience to the laws of his Government, that Mr. Greely now

lies incarcerated in a public gaol in the province of New Brunswick. Is not redress urgently called for? Must not this unoffending citizen be immediately released?

Permit me, Sir, to add my confident belief that the President, on this presentation of the facts relative to this outrage upon the national as well as State rights, will not fail to demand the immediate release of Ebenezer S. Greely, and to interpose suitable claims of indemnity for the wrongs so wantonly enforced upon him.

*The Hon. John Forsyth.*  
&c. &c. &c.

I am, &c.  
ROBERT P. DUNLOP

VII.

Further attempt of  
Maine to exercise  
jurisdiction in the  
disputed territory.

Inclosure 3 in No. 1.

*Eleventh, twelfth, and thirteenth Sections of an Act of the Legislature of the State of Maine, Entitled "An Act providing for the disposition and repayment of the Public Money apportioned to the State of Maine, on deposits by the Government of the United States, passed on the 8th of March, 1837."*

1st mission of Ebe-  
nezer Greely.

Section 11th. Be it further enacted, That for the purpose of ascertaining the population of the several cities, towns, and plantations in this State, the alderman of cities, the select-men of towns, and the assessors of plantations, are hereby authorized, at the expense of their respective cities, towns, and plantations, to cause the number of inhabitants thereof, (omitting in such enumeration, foreigners not naturalized, whose residence has not been established at least four years, in any of the cities, towns, or plantations, or other place wherein such enumeration is to be made, and Indians not taxed,) to be taken according to the directions of this act.

The said enumeration shall distinguish all persons under the age of four years, those of four, and under twenty-one; and those of twenty-one and upwards, belonging to each city, town, and plantation in this State, on the first day of March, eighteen hundred and thirty-seven.

Section 12th. Be it further enacted, That said alderman, select-men, or assessors, or such person or persons as shall be appointed by them for that purpose, shall, respectively, before entering upon the performance of their duty as aforesaid, take and subscribe an oath or affirmation before some Justice of Peace for the faithful performance of their duties in substance as follows:—

I of do solemnly swear (or affirm) that I will truly and faithfully make a full and perfect enumeration and description of the persons resident within the of on the first day of March, eighteen hundred and thirty-seven, and return the same to the Treasurer of Maine, agreeably to the directions of an Act, "entitled an Act providing for the disposition and repayment of the public money "apportioned to the State of Maine, on deposit by the Government of the United States," according to the best of my ability. And that I will make said enumeration and description by actual inquiry at every dwelling-house of said or personal inquiry of the head of every family and not otherwise.

Section 13th. Be it further enacted, That said enumeration shall be fully completed and accurate returns thereof made to the Treasurer of the State, on or before the twentieth day of April next, which returns shall be made in a schedule, the form of which, (with the form of the oath specified in this section) shall be provided and furnished by said treasurer, and they shall distinguish the several families by the name of their master, mistress, or head. And the person taking such enumeration shall take and subscribe upon the returns rendered by him, an oath or affirmation as follows:—

I do solemnly swear (or affirm) that the number of persons set forth in the return made by me agreeably to the provisions of the Act, entitled "An "Act providing for the disposition and repayment of the public money apportioned to the "State of Maine on deposit by the Government of the United States" has been ascertained by an actual inquiry of the head of every family, in conformity with the provisions of said Act, and that the return aforesaid is correct and true according to the best of my knowledge and belief.

A. B.

And the blank forms which the treasurer is to transmit shall be forwarded to the sheriffs of the respective counties, whose duty it shall be to cause the same to be forthwith distributed to the clerks of the respective cities, towns, and plantations. And the sheriffs' bills therefore shall be presented to the Legislature for allowance.

Inclosure 4 in No. 1.

*An Additional Act, providing for the distribution and repayment of the public money apportioned to the State of Maine on deposit by the Government of the United States.*

Section 1. Be it enacted by the Senate and House of Representatives in Legislature assembled, That the time allowed to the respective cities, towns, and plantations, in which to take the census and make returns thereof to the state treasurer is hereby extended to the twentieth day of June next.



## VII.

Further attempts of  
Maine to exercise  
jurisdiction in the  
disputed territory.

1st mission of Ebe-  
nezer Greely.

Section 2. Be it further enacted, That the treasurer is hereby directed to distribute the amount of the second instalment of the surplus revenue among the cities, towns, and plantations, according to the number of their respective scholars, as borne on the school fund apportionment of the present year. And the third instalment shall be distributed according to the same apportionment, unless the census required by the Act to which this is additional shall be fully made, and the returns thereof to the treasurer completed by the first day of July next.

Section 3. Be it further enacted, That the third and fourth instalments shall be distributed among the towns, plantations, cities, and incorporated places in such manner as that the aggregate of the four instalments shall be in exact proportion to their population as ascertained by said census.

Section 4. Be it further enacted, That in addition to the enumeration required by the Act aforesaid to be taken by the county commissioners, it shall be the duty of the County Commissioners of the county of Penobscot, to take the enumeration or census of all the inhabitants of said county, residing north of the surveyed and located townships.

Section 5. Be it farther enacted, That the Treasurer be directed to cause the first action of this Act to be forthwith published in all the newspapers which publish the Laws of the State.

Section 6. Be it further enacted, That the Act to which this is additional, and also this Act shall take effect and be in force from the times of the passage thereof respectively.

Approved by the Governor,  
March 29th 1837

No. 2.—*J. Stephen, Esq. to John Backhouse, Esq.*

(Extract.)

*Downing Street, August 10, 1837*

I AM directed by Lord Glenelg to transmit to you herewith for the early consideration of Viscount Palmerston, extracts of despatches from the Lieutenant-Governor of New Brunswick, reporting the arrest and committal to prison of Ebenezer Greely, a citizen of the State of Maine, on a charge of attempting to assert the sovereignty of that State over the Madawaska settlement. This attempt seems to be very similar in its nature to that undertaken in 1828 by an American citizen named Baker, and which resulted in the legal conviction of that individual before the supreme court of New Brunswick.

As it appears from the letter of the Governor of Maine, of the 26th June, and from the general order to the local militia of the day following, that the authorities of that State are disposed to justify and support the attempts of Greely, Lord Glenelg is of opinion that no time should be lost in addressing to the Central Government of the United States, a very serious remonstrance on the subject. It can scarcely be necessary to point out the invalidity of the pretensions advanced by the authorities of the State of Maine, while it is impossible not to foresee that those pretensions, if persevered in, must lead to hostile collisions between that State and the Government of New Brunswick.

I am, &c.

*John Backhouse, Esq.*  
&c. &c. &c.

(Signed) JAS. STEPHEN.

Inclosure 1 in No. 2.

*Sir J. Harvey to Lord Glenelg.*

(Extract.)

*Government House, Fredericton, June 6, 1837.*

BEFORE I had been twenty-four hours sworn into the administration of this Government, reports were laid before me by the Advocate-General, in the temporary absence of the Attorney-General, of which I enclose copies, and by which your Lordship will find that an American Citizen from the State of Maine, had been arrested for openly taking a census of the population of the Madawaska settlement, and holding language tending to disturb and unsettle the minds of the inhabitants,—acts constituting an exercise of jurisdiction on the part of some of the authorities of that State and an interference with that of this province, which, as soon as the facts are brought before me in a more regular and authentic shape, I shall feel it my duty to represent to the British Minister at Washington, to whom I have not omitted to report my arrival and assumption of this Government. Upon receiving the report above referred to, I directed the “Warden of the disputed territory to proceed and “report from the spot.”

P.S. June 7. By a report this morning received from the Sheriff of Carlton, I am happy to find the affair of Ebenezer Greely appears to be of far less importance than it was at first represented to be.

## Inclosure 2 in No. 2.

*The Attorney General of New Brunswick to Sir J. Harvey.*

VII.

May it please your Excellency,

Fredericton, June 5, 1837.

DURING my absence at Gagetown on private business, a despatch, of which I have the honour to inclose copies, was sent to me from the clerk of the peace in the county of Carleton, within which county the territory in dispute between the British and American Governments is situated.

Further attempt of  
Maine to exercise  
jurisdiction in the  
disputed territory.

As further proceedings may originate questions of importance, in relation to the disputed territory, so called, I feel it my duty as Attorney-General to submit the case for your Excellency's consideration and direction, without giving any instructions as from myself, either to the sheriff or magistrates. But I feel it incumbent on me to say, that the offence charged against the party is one of a serious nature, and the individual concerned has either voluntarily put himself forward to create disturbance and produce dissatisfaction among the peaceable inhabitants of Madawaska, in which case he personally and most justly deserves punishment, or he is the covert agent of the Government of the State of Maine, and if so, the proceedings should, I humbly conceive, be met promptly by the Government of this province, and the course adopted by the Magistrates supported by bringing the case before the judicial tribunals of the country.

First Mission of  
Ebenezer Greely.

Sir John Harvey,  
&c. &c. &c.

(Signed)

I have, &amp;c.

CHARLES J. PETERS,  
Attorney-General.

## Inclosure 3 in No. 2.

*The Clerk of the Peace of Carleton to the Attorney General.*

My Dear Sir,

May 31, 1837.

THE inclosed letter I received this morning, and hasten to transmit it to you in order that if any thing is to be done in the subject-matter of it, it may emanate, from what appears to me to be the only proper quarter—the Government. This will be handed you by Mr. Joseph Phillips, who will be prepared to detail any particulars that may not be found in the inclosed. The question being one in which the Government is directly concerned, I would not venture to give any opinion that would justify the course the Magistrates have pursued. The person who brought Greely down a prisoner, will return forthwith to Madawaska, and the prisoner, for the present, will go where he pleases, and intends, I am informed, resuming his official course in taking the census. I shall write by Michaw to the Magistrates, stating that I have transmitted the matter to you to be laid before the proper tribunal. Please let me hear from you in reply, as soon as practicable, in order that I may communicate, if necessary, to them.

Your's &c.,  
(Signed) A. K. SMEDES WETMORE.

I also inclose the Magistrates' Warrant for Commitment.

## Inclosure 4 in No. 2.

*The Sheriff of Carleton to the Clerk of the Peace.*

Sir,

Woodstock, June 6, 8 o'clock, a. m.

YOUR special messenger, Mr. Turner, being in such great haste, I fear it will be out of my power, without incurring the risk of his too long detention to justify my conduct so fully in the Greely affair as I might hope to do were I allowed more time, particularly as I had the honor of replying, although briefly, to a letter on the same subject from the Hon. John L. Saunders, and also as I have this moment returned from an arduous night's fatigue on public duty. I will, therefore, now only remark, that the course I pursued was in consequence of my considering the conduct of Ebenezer Greely as a mere speculative attempt, in which he seemed extremely disappointed at not being imprisoned. I also acted under the impression that as he had quietly submitted to our jurisdiction, the views of the Magistrates were answered in this stage of the affair, by having the offender removed from the scene of mischief. In this impression I was sustained by my legal advisers.

I have, &c.  
(Signed) JOHN E. WINSTON,  
Sheriff of Carleton.

## Inclosure 5 in No. 2.

*Sir J. Harvey to Lord Glenelg.*

(Extract.)

Government House, Fredericton, New Brunswick, June 15, 1837.

WITH reference to my despatch of the 6th instant, I have now the honor to enclose a copy of the report addressed to me upon the subject of Ebenezer Greely's mis-



sion and arrest by the Warden of the "Disputed Territory;" as also of the communications which I deemed it proper to address to the Governor of the State of Maine, and to His Majesty's Minister at Washington on the subject.

## VII.

Further attempt of  
Maine to exercise  
jurisdiction in the  
disputed territory.

## Inclosure 6 in No. 2.

*J. A. Maclauchlan, Esq. to Sir J. Harvey.*

May it please your Excellency,

*Fredericton, New Brunswick, June 10, 1837.*

First Mission of  
Ebenezer Greely.

IN obedience to your Excellency's instructions, communicated to me through the Advocate General, in the absence of His Majesty's Attorney and Solicitor Generals, I have now the honor to report, for the information of your Excellency, that I proceeded with the least possible delay to the Madawaska settlement.

On my arrival at the East Falls, 130 miles from hence, I was informed the American citizen, Ebenezer S. Greely, had passed up the day before, for the purpose of again proceeding with the census of the inhabitants of Madawaska, under authority from the State of Maine.

Aware of the probable excitement that would naturally arise between the two Governments from this circumstance, and, at the same time, fully convinced that His Majesty's Government would but regret any unnecessary misunderstanding during the pending negotiations, I thought it advisable to call on Mr. Coombs, a Magistrate in the parish, living twelve miles above the Falls, and requested him to accompany me, (which he very readily did) to witness any conversation that might pass between Mr. Greely and myself. We then proceeded, and overtook Mr. Greely a short distance above Green River, about twenty-four miles from the Falls. Having ascertained by the inhabitants as we passed along, that he had the whole of the previous day taken down the houses, number of each family, and stating they would shortly receive from the State of Maine a sum of money, not exceeding three dollars, for each head of a family out of the surplus revenue of the United States.

I requested Mr. Greely to shew me his instructions for exercising authority in Madawaska. Then he handed me a document, a copy of which I beg to enclose your Excellency, and after perusing the same, I returned it with my opinion, that I really thought he had mistaken the intention of his instructions, as no allusion was made either to that settlement, or the territory in dispute; and, therefore, if he would then desist from proceeding with the "census," I would take no notice of what had passed. However, in reply to my advice and request, Mr. Greely remonstrated, and attempted to make it appear that he would be fully borne out by his Government in what he had done; and it was also his intention to finish the census, if he was not prevented. This reply, I regret to say, left me no alternative, but to make him a prisoner, which I did on Wednesday morning the 7th instant. On Friday evening I arrived in town; and yesterday morning, by the advice of the Advocate-General, I committed him to the gaol of the county of York.

I have the honor to be, &c.

(Signed)

J. A. MACLAUHLAN.

Warden of the Disputed Territory.

*Sir J. Harvey,*  
&c. &c. &c.

## Inclosure 7 in No. 2.

*Appointment of Ebenezer S. Greely.*

WHEREAS an additional Act, providing for the distribution and repayment of the public money apportioned to the State of Maine, on deposit by the Government of the United States, approved March 29th, 1837, makes it the duty of the county Commissioners for the county of Penobscot, to appoint some person or persons to take and return to the State Treasurer, the enumeration or census of all the inhabitants of said county, residing north of the surveyed and located townships. Reposing full confidence in your ability and integrity, We, the subscribing county Commissioners for the county of Penobscot, do, by the power vested in us by the additional Act aforesaid, authorize and appoint you to take an enumeration or census of the inhabitants resident on the territory above named, according to the requirements and provisions of an Act, providing for the disposition and repayment of the public money apportioned to the State of Maine on deposit by the Government of the United States; approved March 18, 1837.

You are required to make returns thereof, under oath, on, or before the twentieth day of June next to the State Treasurer.

Given under our hands at Bangor, in the county aforesaid, this fifteenth day of May. A.D. 1837.

(Signed)

E. G. RAWSON,

JOSHUA CHAMBERLAIN, Jun.

County Commissioners for the County of Pembroke.

True Copy.

(Signed)

A. J. MACLAUHLAN,

Warden of the Disputed Territory.

*Sir J. Harvey to the Governor of the State of Maine.*

Sir, *Government House, Fredericton, New Brunswick, June 6, 1837.*

I DO myself the honor of acquainting your Excellency with my arrival in this province, and my assumption of the administration of its Government, under a Commission from my Royal Master, and I hasten convey to your Excellency the assurance of my desire so to conduct the duties attaching to my office, as respects our neighbours of the State of Maine, as may convince your Excellency of my sincere wish to promote a friendly intercourse and good understanding with them by every means in my power.

I enter upon the administration of this Government with an anxious hope that by an early settlement of the territorial question, the subject of negotiation betwixt the General Government of the United States and Great Britain, the interests of these adjoining provinces may no longer interfere with each other, and that their inhabitants may be left free to cultivate that harmony and good feeling which it is so desirable should subsist betwixt people of common origin and identified in their mutual interests.

I have the honor, &c.,

(Signed) J. HARVEY, M.-General, Lieut.-Governor.

Further attempt of Maine to exercise jurisdiction in the disputed territory.

1st mission of Ebenezer Greely.

Inclosure 9 in No. 2.

*Sir J. Harvey to the Governor of the State of Maine.*

*Government House, Fredericton, New Brunswick, June 12, 1837.*

Sir,

SINCE I had the honor of addressing your Excellency under date the 6th instant, announcing my having assumed the Administration of the Government of this Province, a report has been laid before me by the Warden of the disputed territory, copy of which I feel to be an act of courtesy towards your Excellency, to lose no time in communicating to you.

In including the territory within the limits of British claim in the "census" which Ebenezer Greely appears to have been instructed to take of the population of the county of Penobscot, he has evidently acted in ignorance, or under a misconception of the existing relations betwixt England and the United States of America, which I cannot allow myself to doubt that your Excellency will lose no time in causing to be explained and removed.

Though necessarily committed to confinement, I have desired that every regard may be shewn to Greely's personal convenience, consistent with the position in which he has "voluntarily" placed himself. I use this expression, because, as your Excellency will observe, Greely was informed by the Warden, that if he would desist from the acts in which he was engaged, and the language which he was holding to the people of the Madawaska settlement (acts constituting not only an interference with the acknowledged right of jurisdiction of this province, but the positive exercise within its limits of actual jurisdiction, however unauthorised, on the part of the State of Maine), and would withdraw from the district he should be allowed to do so, otherwise, that in the discharge of the duties imposed upon him by his office, he, the Warden (who is in the commission of the peace) must be under the necessity of apprehending, in order to make him amenable to the laws of this province. This proposal Greely rejected, and was accordingly committed to gaol, to be dealt with according to law. In the mean time, as an evidence of my desire to cultivate the most friendly understanding with the Government of the State of which Greely is a citizen, I lose no time in saying that upon receiving an assurance from your Excellency that your authority shall be exerted in restraining this, or any other citizen of the State of Maine from adopting proceedings within the British limits (as claimed) calculated to infringe the authority and jurisdiction of this province, and to disturb and unsettle the minds of that portion of its inhabitants residing in the disputed territories, until the question in dispute be brought to a final settlement, Greely shall immediately be enlarged.

Trusting that your Excellency will see in this proposition an anxious desire on my part to redeem the pledge in my communication of the 6th instant.

I have the honor, &c.,

(Signed) J. HARVEY, M.-General, Lieut.-Governor.

*His Excellency the Governor of the State of Maine.*

Inclosure 10 in No. 2.

*Sir John Harvey to Lord Glenelg.*

(Extract.) *Government House, Fredericton, New Brunswick, July 6, 1837.*

BY the post of this morning I received the answer of the Governor of the State of Maine to my letter of the 12th ultimo, relative to the arrest of "Ebenezer Greely," which I immediately transmitted to His Majesty's Minister at Washington, for the reasons which I have so fully stated in my letter to Mr. Fox, that it can only be necessary for me to refer your Lordship to that letter (copy of which and its various enclosures are herewith transmitted) for full information upon a subject which may, and appears very likely to, assume a character of national importance.

Whether the proceedings of the Executive Government of the State of Maine have any



## VII.

Further attempt of  
Maine to exercise  
jurisdiction in the  
disputed territory.

First Mission of  
Ebenezer Greely.

other object than to force their General Government to come to a final settlement with taht of His Majesty, upon this vexatious boundary question, I have as yet had no means of accurately ascertaining; but looking to the moment at which Greely's mission took place, and his undisguised admission that his object was to be taken into custody, (and to the fact of his having remained little more than nominally a prisoner, and not having attempted an escape), there are quite sufficient grounds, as appears to me, for connecting it, or rather for suspecting that it may be so far connected with Lower Canada, as to be intended as a diversion in favor of the Papineau party, by preventing reinforcements of troops being sent from Nova Scotia, or from hence, into that province. Whatever may be its object, I wish to renew to your Lordship the assurance conveyed in a former despatch, that nothing short of an actual invasion, or the irruption of an armed force, shall induce me to call my military means into activity.

## Inclosure 11. in No. 2.

*The Governor of the State of Maine to Sir John Harvey.*

*State of Maine, Executive Department,*

*Augusta, June 26, 1837.*

Sir,

I HAVE had the honor to receive your Excellency's communication of the 12th instant, informing me of the arrest and imprisonment of Ebenezer S. Greely.

Mr. Greely is a citizen of this State, and at the time of his arrest was in the public employ, within the limits and under the authority of this State.

Will your Excellency pardon me for observing that I do not find it easy to reconcile the procedure had by your approbation toward Mr. Greely, with the dispositions for maintaining friendly relations between the respective Governments, expressed in the letter of the 6th of June instant, which you did me the honor to address to me.

The arrest and imprisonment of Mr. Greely is an infringement of the rights guaranteed to him, as well as every other citizen of the United States by the constitution of his country, and a deep invasion of the soil and sovereignty of this State. And I cannot but persuade myself, that the consideration which your Excellency will feel to be due to this subject, will lead to the immediate enlargement of Mr. Greely, and to the reparation justly due to an unoffending citizen of a friendly country, for a procedure so highly unwarrantable. And it will give me pleasure to learn that the high estimation which your Excellency certainly cherishes for the national honor and dignity of any people, has led to a full retraction of the wrong done to the United States, and this State, in the measures pursued toward Mr. Greely, under your Excellency's administration.

I shall lose no time in communicating to the Government of the United States, the letter of your Excellency.

I have, &c.,

*Sir John Harvey,*  
    &c.   &c.   &c.

(Signed)

ROBERT P. DUNLOP.

## Inclosure 12 in No. 2.

*Mr. Consul Sherwood to Sir J. Harvey.*

*British Consulate, Maine and New Hampshire,*

*Portland, June 29, 1837.*

Sir,

A GENERAL Order of the Adjutant-General of the State of Maine, No. 57, dated the 27th instant, having been issued and published in the several newspapers within this State, by command of Robert Dunlop, Esquire, the Governor thereof, I have deemed it to be my duty to transmit to you a copy of the same, on the other side written, for your information.

I also have to acquaint you that I have this day forwarded a like copy of the said General Order to His Excellency, Henry Stephen Fox, Esquire, His Majesty's Envoy Extraordinary and Minister Plenipotentiary, at the seat of Government at Washington, D. C. for his information.

I have, &c.,

*Sir John Harvey,*  
    &c.   &c.   &c.

(Signed)

JOS. S. SHERWOOD.  
*His Majesty's Consul.*

## GENERAL ORDER.—No.

*State of Maine, Head Quarters,*

*Augusta, June 27, 1837.*

Fellow Soldiers,

THE soil of our State has been invaded, one of our citizens, while in performance of a duty required by law, was arrested within the territory of Maine, and carried to an adjoining foreign province, where he now remains incarcerated within the walls of a prison. This is but a repetition of former acts of injustice committed against our border inhabitants, by officers acting under the authority of the British Province of New Brunswick.

The integrity of the State must be preserved; Maine looks to the General Government for redress. Our citizens must be secure within our limits, and it may be found necessary to bring forth military power, to give that protection to which they are entitled.

The Commander-in-Chief, therefore, calls upon the militia to hold themselves in readiness to obey such orders as the security of our citizens and the honor of the State may require.

By the Commander-in-Chief,

(Signed)

A. B. THOMPSON.

Adjutant-General.

VII.

Further attempt of  
Maine to exercise  
jurisdiction in the  
disputed territory.

First Mission of  
Ebenezer Greely.

Inclosure 13 in No. 2.

*Sir J. Harvey to Henry S. Fox, Esq.*

(Extract.)

*Government House, Fredericton, New Brunswick, July 6, 1837.*

I HAVE the honor to acquaint your Excellency that the post of this morning brought me the answer of the Governor of the State of Maine, to my letter to him of the 12th ultimo.

Its contents appear to me to render it important that your Excellency should be possessed as fully as possible of the "legal case" as respects Ebenezer Greely. I have accordingly called upon the Attorney-General to draw up a précis of it, with copies of the sworn informations upon which the proceedings were founded, which I have the honor herewith to transmit, together with copies of Governor Dunlop's letter to me, and of one which was received by me at the same time, from the British Consul at Portland.

Your Excellency is aware of the tenor of the instructions which I hold from His Majesty's Secretary of State for the Colonies, in accordance with the spirit of which I deem it my duty to invite your Excellency's attention to the grounds upon which the Governor of Maine contends that I ought to liberate Greely, viz.,—"that at the time of his arrest he was "in the public employ, within the limits and under the authority of that State." Upon the assertion as to Greely's being within the limits of the State of Maine at the time of his arrest (in the Madawaska Settlement) it cannot be necessary for me to offer any comment, but I regard both that assertion and the declaration that Greely was acting in "the public employ, and under the authority of that State at the time of his arrest," as so important, that I feel it right to forward to your Excellency the original document in which they are embodied.

I have only to add, that I shall lose no time in remonstrating with the Executive Government of Maine against any overt act which I may deem an infringement of the existing relations betwixt the two countries as respects the "disputed territory" on the part of any of the citizens of the United States, at the same time apprizing your Excellency of the circumstances which have appeared to me to call for such protest on my part.

Inclosure 14 in No. 2.

*The Attorney General of New Brunswick to Sir. J. H*

May it please your Excellency,

*Fredericton, July 6, 1837.*

I HAVE the honor herewith to inclose to your Excellency, copies from the original warrant, both of arrest and commitment, under which Ebenezer S. Greely, the prisoner, confined in the gaol of the county of York, has been taken into custody on a charge of misprision of treason, and seditious conduct committed in the parish of Madawaska, in the county of Carleton, in this Province, together with a copy of the deposition of Daniel Mechaw, under which the last arrest and commitment by Mr. Justice Maclaughlan was made.

No. 1. Original warrant for the arrest of Ebenezer S. Greely, issued by Justices Coombes and Rice.

No. 2. Original warrant of commitment of the keeper of the gaol at Woodstock, in the county of Carleton.

No. 3. A letter from the said Justices to Clerk of the Peace, of the same county.

No. 4. Copy of a deposition sworn to by Daniel Mechaw, before Mr. Justice Maclaughlan.

No. 5. Copy of the warrant issued by Mr. Justice Maclaughlan for his committal to the keeper of the gaol at Fredericton.

The deposition under which the warrant of apprehension was issued in the first instance by Justices Coombs and Rice, being with those gentlemen at Madawaska, I have it not in my power at present to furnish the same.

I have, &c.

*Sir John Harvey.*

&c. &c. &c.

(Signed)

CHARLES J. PETERS.

Attorney General.



## VII.

Further attempt of  
Maine to exercise  
jurisdiction in the  
disputed territory.

First Mission of  
Ebenezer Greely.

1. *Warrant for the arrest of Ebenezer Greely.*

CARLETON, S. S.

William the Fourth, by the Grace of God, of Great Britain and Ireland, King, Defender of the Faith, and so forth, to any of the constables of the parish of Madawaska, in said county, Greeting.

For as much as Daniel Mechaw, of the said parish and county aforesaid, came before us, Francis Rice and L. R. Coombes, Esquires, two of His Majesty's Justices of the Peace, in and for the said county, and sayeth, that one Ebenezer Greely, a citizen of the State of Maine, one of the United States of America, is now in the act of taking the census of the same parish of Madawaska, county Carleton, and province of New Brunswick, and at the same time stating to the people of the said parish, that by complying to his request, they will be paid a sum of money not exceeding twelve shillings and sixpence per head, in each family, on or before the 1st day of September next, and also troubling the peace of His Majesty's subjects, by persuading and holding out to the people that they are American citizens, and living in the county of Penobscot.

These are therefore in His Majesty's name to command you, forthwith, to take the body of said Ebenezer S. Greely, and bring him before us the said Justices, to be forthwith dealt with according to law.

Given under our hands and seals, the 29th day of May, 1837, and the seventh year of His Majesty's reign.

(Signed) FRANCIS RICE, J. P. (L. S.)  
L. R. COOMBES, J. P. (L. S.)

2. *Warrant of Commitment of Ebenezer Greely, to the Gaol of Woodstock.*

CARLETON, S. S.

Francis Rice and L. R. Coombes, Esquires, two of the Justices of our Lord the King, assigned to keep the peace in the said county, and also to hear and determine divers felonies, trespasses, and other misdemeanors in the said county committed.

To the keeper of the gaol of our said Lord the King at Woodstock, in the said county, or to his deputy there, and to each of them greeting. Whereas Ebenezer S. Greely, of the town of Dover, county of Penobscot and State of Maine, one of the United States of America, was arrested by one of the constables of the parish of Madawaska, in said county of Carleton, on the oaths of Daniel Mechaw and others, who sayeth that the above Ebenezer S. Greely is now in the act of taking the census of the inhabitants of the parish, county, and Province aforesaid, and at the same time proposing to the people of said parish, that by complying to his request they would be paid a sum of money out of the surplus of the revenue of the United States of America, and that the people of this parish of Madawaska, are citizens of the State of Maine, and fully entitled to a full proportion of the said money, and also troubling the peace of the subjects of our said Lord the King, his crown and dignity. Therefore, on behalf of our said Lord the King, we command you and each of you, that you or one of you receive the said Ebenezer S. Greely into your custody, in the said gaol, there to remain till he be delivered from your custody according to law. Given under our hands and seals, at Madawaska, in the said county, the 29th day of May, in the seventh year of the reign of our said Lord William the Fourth, and in the year 1837.

(Signed) FRANCES RICE, J. P. (L. S.)  
(Signed) L. R. COOMBES, J. P. (L. S.)

3. *Messrs. Rice and Coombes to Smedes Wetmon, Esq.*

Sir,

Madawaska, May 29, 1837.

Ebenezer S. Greely, an American, came to Madawaska and proceeded in taking the census of the people of Madawaska, as you will see by the commitment. We called upon him and requested him not to proceed any further, otherwise we would be under the necessity of arresting him; he replied, I shall not stop, but will go straight a-head, and his orders were such as to go on until he was arrested, we therefore committed him to goal; you will be pleased to examine Daniel Mechaw, as he is a chief witness, being his hired man and interpreter, and report to head-quarters forthwith.

We write this in haste, therefore wish you to do the needfull.

We remain, &c.

(Signed)

Smedes Wetmon, Esq.

FRANCIS RICE.  
L. R. COOMBES, Justice of Peace.

4. *Deposition of Daniel Mechaw.*

CARLETON, S. S.

BE it remembered, that on the 8th day of June, in the year of our Lord 1837, personally appeared before me, James A. Maclauchlan, Esquire, one of His Majesty's Justices of the Peace for the county of Carleton and province of New Brunswick; Daniel Mechaw, who made oath, that on Tuesday the 23rd day of May past, an American named Ebenezer S. Greely, came to his house, nearly a mile above the Great Falls, parish of Madawaska, and hired him (Mechaw) by the day. That on reaching the different houses in the Madawaska settlement, deponent saith, he, Greely, required the name and number of the family, under authority of the county of Penobscot, State of Maine, and telling said inhabitants they would shortly receive two or three dollars a head of family out of the surplus revenue of the United States. This duty, deponent saith, was followed up by the said Greely until the day, Saturday the 27th May last, he Greely went to Francis Rice, Esquire, a Magistrate, when he, Greely, went through a mere form by demanding of him, Mr. Rice, in the name of the State of Maine and county of Penobscot, his name and the number of his family, which, he, Rice, did not give. That on Monday the 29th day of May past, deponent saith in his affidavit, the said Greely was arrested and taken before Justices Rice and Coombes, and then given in charge to deponent to convey to the Woodstock gaol with a commitment, which commitment deponent gave the Sheriff, who declined acting in the business, and told Greely he might go about his business, which he did.

Deponent further saith, he did not see Greely again till he came to his, deponent's, house, on Saturday the 4th June, where he, Greely, remained the night. That the next morning, Monday, he, Greely, hired deponent again by the day, and proceeded through the settlement as before, taking the name and number of the family and explaining the object of his duty and what he intended to do, until he was arrested by James A. Maclauchlan, Esquire, on Monday morning the 7th June.

his  
DAN. X MECHAW.  
mark.

Sworn before me at the Great Falls, on Thursday the 8th of June, 1837.

(Signed) JAMES A. MACLAUHLAN.  
Justice Peace.

5. *Warrant issued by Mr. Justice Maclauchlan for committal of Ebenezer Greely to the Gaol at Fredericton.*

County of York. s.s.

WILLIAM the FOURTH by the Grace of God of the United Kingdom of Great Britain and Ireland, King, defender of the faith, &c., to the keeper of our gaol at Fredericton, in our said county of York, or to his deputy, greeting.

Whereas, Ebenezer S. Greely, of the parish of Madawaska, in the county of Carleton, labourer, is arrested for being guilty of a high misdemeanour by taking a census of the inhabitants of the said parish of Madawaska, and holding out to the said inhabitants that they are citizens of the State of Maine, and entitled to a proportion of the surplus revenue of the United States of America; I therefore command you and each of you, that you receive him the said Ebenezer S. Greely into your custody in our said gaol, or that one of you do receive him, there to remain till he be delivered from your custody according to the law of our province of New Brunswick.

Witness, James A. Maclauchlan, one of His Majesty's Justices of the Peace, assigned to keep the peace in the counties of Carleton and York.

Given under my hand and seal, this 10th day of June in the year of our Lord 1837, and in the 7th year of His Majesty's reign.

(Signed) J. A. MACLAUHLAN. J. P.

No. 3.—*Viscount Palmerston to Henry S. Fox, Esq.*

Sir,

Foreign Office, August 31, 1837.

I TRANSMIT herewith, for your information and guidance, copies of a letter and of its inclosures which I had received from the Colonial Office relative to the arrest of Ebenezer Greely, a citizen of the State of Maine, for attempting to assert the sovereignty of that State over the Madawaska settlement, and respecting the intention of the State of Maine to justify and support the attempt in question.

I have to instruct you to lose no time in bringing this matter, with which it appears Sir J. Harvey has already made you acquainted, before the notice of the American Government for their serious consideration. It may not be necessary for you to enter at present into the question of the invalidity of the pretensions advanced by the authorities of the State of Maine; but you will point out to Mr. Forsyth, that those pretensions, if persevered in, must lead to hostile collisions between that State and the Government of New Brunswick, and you will express the conviction of Her Majesty's Government, that the

VII.

— —

Further attempt of  
Maine to exercise  
jurisdiction in the  
disputed territory.

First Mission of  
Ebenezer Greely.



## VII.

Further attempt of  
Maine to exercise  
jurisdiction in the  
disputed territory.

First Mission of  
Ebenezer Greely.

President of the United States will immediately interpose his authority for the repression of any proceedings on the part of the State of Maine, which may be likely to give rise to such disastrous consequences.

You will state to Mr. Forsyth, that Her Majesty's Government will feel it to be their duty to oppose a temperate and firm resistance to any aggression of American citizens, and to employ constitutional powers for the protection of Her Majesty's subjects, and for the punishment of such persons as may be duly convicted before the legal tribunals of Her Majesty's possessions in North America.

Although you are instructed by this despatch not to provoke a discussion with the American Government upon the question of the right of Her Majesty's Government to exercise jurisdiction within the disputed territory until the boundary question is settled between the two Governments, yet, if Mr. Forsyth should reassert the pretensions which have of late years been advanced by the American Government with regard to the jurisdiction in question, with a view to justify the proceedings of Ebenezer Greely, and of the State of Maine, you will, in replying to such pretensions, avail yourself of the unanswerable arguments upon that subject contained in the note from the Earl of Aberdeen to Mr. Lawrence of the 14th August, 1828. Lord Aberdeen's note formed part of the correspondence between the British and American Governments upon the subject of the arrest and trial of John Baker by the authorities of New Brunswick, and will be found in the archives of your mission as an inclosure in Lord Aberdeen's despatch to Mr. Vaughan, of the 14th August, 1828.

I further inclose to you copies of a note and its inclosures which I have subsequently received from Mr. Stevenson, complaining of the arrest of Ebenezer Greely, and demanding the liberation of that individual, and compensation for his alledged wrongs; and I shall not fail to communicate to you the answer which I may return to that note.

In conclusion I have to instruct you to acquaint the Lieutenant-Governor of New Brunswick with whatever steps you may take upon the subject to which this despatch relates.

H. S. Fox, Esq.,  
&c. &c. &c.

I am, &c.  
(Signed)

PALMERSTON.

No. 4.—*J. Stephen Esq. to the Hon. W. Fox Strangways.*

(Extract.)

*Downing Street, September 29, 1827.*

I AM directed by Lord Glenelg to transmit to you, for the information of Viscount Palmerston, copies of despatches which have been received from the Lieutenant-Governor of New Brunswick, reporting his further proceedings with reference to Ebenezer Greely.

Inclosure 1 in No. 4.

*Sir John Harvey to Lord Glenelg.*

(Extract.)

*Government House, Fredericton, New Brunswick, July 31, 1837.*

WITH reference to my despatch, (No. 22), I have the honor to acquaint your Lordship, that I have this morning received a visit from two gentlemen of the State of Maine (one of them a Mr. Parkes, the Representative of the State of Maine in Congress, the other a Colonel Webster, a very large landholder, and connected with this Province), requesting my permission to visit Ebenezer Greely, within the limits of the jail of this place, a permission which it can scarcely be necessary for me to add was freely granted.

*August 3.*

P. S. At the personal request of Mr. Parkes, who pledged his word to me for E. Greely's strict observance of his parole, I have had pleasure in extending the limits of Greely's restraint to the precincts of this town, Mr. Parkes having assured me that this additional air and exercise was necessary for his health.

(Signed) J. H.

*August 8.*

I add an additional P. S. to say, that in consequence of a despatch which I have this day received from Her Majesty's Minister at Washington, I have had pleasure in enlarging Ebenezer Greely.

(Signed) J. H.

Inclosure 2 in No. 4.

*Sir John Harvey to Lord Glenelg.*

My Lord;

*Government House, Fredericton, August 18, 1837.*

WITH reference to my despatch of the 31st ult. I have the honor to transmit a copy of my letter and inclosure to Mr. Fox, by which your Lordship will be more fully possessed of the grounds on which E. S. Greely was enlarged by me.

I have, &c.

*The Lord Glenelg.*

(Signed) J. HARVEY.

&c. &c. &c.

## Inclosure 3 in No. 4.

*Sir J. Harvey to the Henry S. Fox Esq.*

Sir,

*Government House, Fredericton, New Brunswick, August 10, 1837.*

I HAD the honor of receiving your Excellency's communication of the 24th ult. on the morning of Tuesday the 8th instant. By a singular coincidence, Mr. Ebenezer S. Greely, the subject of it, presented himself for the first time at the Government House very shortly afterwards, for the purpose of expressing to me his acknowledgments for the attention to his comfort and convenience which had been shewn to him by my directions, and particularly for the indulgence which he had recently experienced in being allowed to walk about this town.

The accompanying paper will possess your Excellency of the general purport of the interviews which I had with Mr. Greely, as well as of my having immediately complied with your Excellency's wish relative to his enlargement, to which I am now enabled to add, that he actually left Fredericton this morning on his return to the State of Maine. The report of what passed betwixt Mr. Greely and myself, in the presence of my Provincial Aide-de-Camp, I have considered it of some importance to forward to your Excellency, in order that you may be prepared to state the grounds, officially, if necessary, on which I acted in releasing Mr. Greely, a measure of which I was quite rejoiced to receive not only your Excellency's approbation, but strong recommendation.

Trusting that the proceeding which it has been my duty to report to your Excellency may tend to allay any existing irritation on the part of the people and authorities of the State of Maine, and dispose them to consider the questions at issue in a more temperate and reasonable state of feeling,

I have, &amp;c.

(Signed)

J. HARVEY.

*Henry S. Fox Esq.*

&amp;c. &amp;c. &amp;c.

VII.

Further attempt of  
Maine to exercise  
jurisdiction in the  
disputed territory.

First Mission of  
Ebenezer Greely.

## Inclosure 4 in No. 4.

*Deposition of the Hon. W. H. Robinson.*

The Hon. W. H. Robinson, Legislative Counsellor and Provincial Aide-de-Camp to His Excellency the Lieut.-Governor,—states.

THAT he introduced Mr. Ebenezer Greely, citizen of the State of Maine, to an audience of His Excellency, the Lieut.-Governor, on Tuesday the 8th instant. His Excellency received Mr. Greely very civilly; stated to him that he had always regretted the necessity for the arrest and detention of Mr. Greely; said that necessity was imposed on him for the assertion of the principle, which it was his duty to maintain, of the right of jurisdiction and possession of the disputed territory on the part of the British Government: but that he considered enough had been done for that purpose, especially as Mr. G.'s commission had ceased. That he had always wished and directed Mr. Greely to be treated with every degree of attention to his comfort and convenience, and that his restraint should be merely nominal; that he had been happy to attend to Mr. Gorham Parke's request that Mr. Greely should have free liberty to walk about the town—and, in fact, thought he always had had that indulgence; and having yesterday morning received an application for his enlargement, he the Lieut.-Governor had much pleasure in complying with that request. His Excellency then inquired of Mr. Greely when he wished to proceed on his return to the States? he answered on Thursday morning the 10th inst. His Excellency said that Mr. Greely might make his arrangements accordingly, and that the necessary order should be sent to the sheriff so as to allow him to proceed at that time.

Some complimentary observations then occurred, respecting some newspapers which Mr. Greely had left for His Excellency's perusal, but which His Excellency said he had been so much engaged in despatching a mail to England that he had not had time to look at.

Deponent further states that, on the following morning he was made the bearer of an order to the Sheriff for the enlargement of Mr. Greely, of which the following is a copy.

On this occasion Mr. Greely repeated his acknowledgments, and expressed to deponent a wish that His Excellency would accept the newspapers from him, which His Excellency did.

## Inclosure 5 in No. 4.

*Order for the Release of Mr. Greely.*

Sir,

*Government House, August 8, 1837.*

AN application having been made to me for the liberation of Mr. E. Greely, I have much pleasure in complying with that request. You will accordingly release Mr. Greely from all further restraint.

I am, &amp;c.

(Signed)

J. HARVEY.

*Mr. Sheriff Miller,**County of York.*





## VIII.

## Further attempt of the State of Maine, to Exercise Jurisdiction within the Disputed Territory.

## SECOND MISSION OF EBENEZAR GREELY.

No. 1—*J. Stephen, Esq. to the Hon. W. Fox Strangways.*

Sir,

*Downing Street, October 10, 1837.*

WITH reference to my letter of the 29th ultimo, I am directed by Lord Glenelg to transmit to you, for the information and consideration of Viscount Palmerston, the copy of a dispatch which has this day been received from the Lieut.-Governor of New Brunswick, reporting the return of Mr. Ebenezer Greely to that province, with the avowed intention of resuming the proceedings which, in the former instance, had led to his arrest at Madawaska, and the measures which have been adopted by the authorities of New Brunswick for vindicating the rights of Great Britain over the territory in dispute between the State of Maine and that province.

VIII.

Further attempt of  
Maine to exercise  
jurisdiction in the  
disputed territory.

Second Mission of  
Ebenezer Greely.

I have the honor to be, &amp;c.

(Signed)

JAS. STEPHEN.

*The Hon. W. Fox Strangways,*  
&c. &c. &c.

Inclosure 1 in No. 1.

*Sir J. Harvey to Lord Glenelg*

(Extract.)

*Government House, Fredericton, New Brunswick, September 5, 1837.*

THE enclosed copy of a letter, which I have addressed to Her Majesty's Minister at Washington, will inform your Lordship that Mr. E. S. Greely, who was liberated by me on the 5th ultimo, has returned into this province, for the avowed purpose of resuming the proceedings which led to his arrest at Madawaska.

Mr. Greely having himself apprized me, by a note addressed to myself, of his arrival and intentions, I immediately placed that communication in the hands of the Solicitor-General, (the Attorney-General being absent), and directed him to proceed into the county of Carleton, in order to communicate with and instruct the Magistrates in their proper line of duty, and with a view to prevent the adoption of any measures against Mr. Greely, until some overt illegal act had been committed by him.

I will take care to keep your Lordship, and Her Majesty's Minister at Washington, promptly informed of all that may occur connected with these vexatious proceedings, to which, I have been assured, some (doubtless wilful) misconception on the part of the people of Maine, of a declaration imputed to Lord Palmerston in his place in the House of Commons some months ago, if it did not actually give rise, yet is believed to have given an increased degree of confidence on their part.

Inclosure 2 in No. 1.

*Sir J. Harvey to H. S. Fox, Esq*

Sir,

*Fredericton, New Brunswick, August 29, 1837.*

WITH much concern I hasten to inform your Excellency, that Mr. E. S. Greely has returned into this province, professing his determination to proceed into the Madawaska settlement, there to resume taking the census, in which he was interrupted by his arrest. If he persists in doing this he will subject himself to immediate arrest by the local authorities, by which, excitement, and probably, collision may be produced, as rumours have reached me of an intended mustering of militia volunteers on the frontiers of Maine.

I should much regret any occurrence of this kind, and should be glad to be favoured with your advice and opinion at as early a period as may be practicable.

I have the honour to be, &amp;c.

(Signed)

J. HARVEY,  
Lieutenant-Governor.

*H. S. Fox, Esq.*  
&c. &c. &c.

Inclosure 3 in No. 1.

*The Solicitor-General to Sir. J. Harvey.*

(Extract.)

*Fredericton, September 5, 1837.*

I HAVE the honor to report that in pursuance of your Excellency's directions, I set out from this place for Madawaska, on Thursday morning last, for the purpose of ascertaining the object Mr. Greely had in view in returning to this province, after having been discharged from custody by your Excellency, under the expectation that he would not again attempt to persist in the measure for which he had been imprisoned. On my arrival at Woodstock I found Mr. Greely there, and had an interview with him in the presence of Mr. MacLachlan, the warden of the disputed territory. I first presented him with the letter he had addressed to your Excellency, of the 26th August last, apprizing your Excellency of his return and intention of proceeding to Madawaska, "to close up the census



## VIII.

Further attempt of  
Maine to exercise  
jurisdiction in the  
disputed territory.

Second Mission of  
Ebenezer Greely.

which he commenced last May;" and enquired of him if that was his letter; he replied it was. I then enquired of him what his object was, in proceeding to take a census of the inhabitants of the parish of Madawaska, whether from mere curiosity, or for any other object: his reply was that the inhabitants of that parish being on the banks of the River St. John were inhabitants and citizens of the State of Maine, being within the territory of and belonging to, that State; and that he was acting under the authority of the Government of that State in taking their numbers, in order that they should participate in, or receive a portion of, the surplus revenues of the United States appropriated to the State of Maine. I asked him if he meant to tell those inhabitants that they were citizens and inhabitants of the State of Maine. He replied, if they asked him the question, he certainly should tell them so. I then told him that the territory and the inhabitants of the parish of Madawaska had hitherto been under the dominion of the British Government, and still continued so as part of this province; and that until the Government of the mother country ordered otherwise, the Governor of this province was bound to, and would necessarily retain the possession and hold jurisdiction over that territory; and, therefore, any assumption of a right, such as he talked of, that is, the claiming it as part of the territory of the State of Maine, and under the dominion of that State, could not, and would not be allowed by the provincial authorities; and I, therefore, in the name of your Excellency, as Governor of this province and of the provincial authorities in general, forbid him to proceed in the measure he talked of; and gave him notice that if he did so proceed he would be immediately apprehended and committed to prison. I, at the same time, told him that the act which he intimated his intention of doing, was one that no British subject would be allowed to do, or could do without being subject to a severe and heavy punishment, as a crime of a very heinous nature; and, therefore, he could not for a moment suppose that he, a foreigner, would be allowed to do that which would not be tolerated in a British subject. He said, in his reply, he understood all that, and he expected and was prepared to be taken prisoner; but should, notwithstanding, proceed until he was so stopped, and that we might depend upon it that as soon as he was taken prisoner, his Government would appoint another person to succeed him, who would be sent on for the purpose with a sufficient force to protect and support him in the act. I suggested to him that it would answer his purpose equally well, after the notice I had given him, to go back and inform his Government that he was met by the provincial authorities at Woodstock, and stopped in his proceedings, and I would give him a written certificate to that effect if he wished it, and this course would prevent the necessity of taking him prisoner; but he declined acceding to this proposition, declaring he would proceed in his object, until he was taken prisoner. This ended our interview; much more passed in the course of our conversation, but what I have related is the substance of it. I proceeded the next morning on for the Grand Falls; and on my arrival there sent for the Magistrates living in the Madawaska Settlement; and having given them the necessary instructions as to apprehending Mr. Greely in case he came there, and commenced again to take the census for the purpose he stated to me, I returned to this place. On my way back, I learnt at Woodstock that Mr. Greely had left that place for Madawaska on Saturday morning last, and, therefore, I presume he will proceed in the way he stated it was his intention to do, in which case the Magistrates will, under the instructions I left with them, apprehend him and send him to Carleton jail.

No. 2.—*J. Stephen. Esq., to the Hon. W. Fox Strangways.*

Sir,

*Downing Street, October 12, 1837.*

WITH reference to my letter of the 10th instant, I am directed by Lord Glenelg to transmit to you for the information and consideration of Viscount Palmerston, the enclosed copies of two despatches from the Lieut.-Governor of New Brunswick, reporting the arrest of Ebenezer Greely, and the measures which he has taken for repelling the attack meditated by the State of Maine on the British authorities at Madawaska.

*The Hon. W. Fox. Strangways,*  
&c. &c. &c.

I am, &c.,  
(Signed) JAS. STEPHEN.

Inclosure 2 in No. 1.

*Sir. J. Harvey to Lord Glenelg.*

(Extract.)

*Government House, Fredericton, September 11, 1837.*

HEREWITH I hasten to transmit to your Lordship a copy of a letter which I have felt it my duty to address to the Governor of the State of Maine in consequence of information communicated without the least reserve or hesitation by the agent of the State, Mr. Ebenezer S. Greely, now in confinement in the gaol of this place, under a warrant issued by me pursuant to the advice of the Solicitor-General, (in the absence of the Attorney-General) and confirmed by rumours from all quarters: copy of the warrant under which Mr. Greely was committed is enclosed.

I have transmitted copy of my letter to the Governor of Maine, to Her Majesty's Ambassador at Washington, and shall take care to keep him and your Lordship regularly and promptly apprized of any occurrence of importance which may arise out of the present vexatious state of things.

Inclosure 2 in No. 3.

*Sir John Harvey to the Governor of the State of Maine.**Government House, Fredericton, New Brunswick,**September 10, 1837.*

Sir,

Mr. E. S. GREELY having again come into this Province and resumed the exercise of jurisdiction within it, and having declared that it is your Excellency's intention to support him or some other agent (in the event of his arrest) by force, it becomes my duty to lose time in apprizing your Excellency of what you may not be aware, viz. that I hold positive instructions from my Government not to suffer any act of sovereignty or jurisdiction to be exercised by any foreign Power within the territory in dispute betwixt Great Britain and the United States, until the right to that territory shall have been determined by negotiation betwixt the two general Governments. I am further to apprise your Excellency, that the Central Government of the United States having distinctly acquiesced in this arrangement, I consider that, in fulfilling it, I am acting in accordance with the declared wishes of that Government, as well as in obedience to the orders of my own.

From this explanation your Excellency will perceive, that until I may be relieved from the obligation imposed on me by my instructions, I possess no discretionary power whatever on the subject; and that if the whole military force of British America should be necessary to enable me to give effect to those instructions, that force would be placed at my disposal.

Under these embarrassing circumstances, and in a spirit of the utmost anxiety so to act as not to make myself instrumental in disturbing or endangering those friendly relations now happily subsisting betwixt the two nations, I appeal to your Excellency so far to co-operate with me in respect to this most important object as to prevent the adoption, on the part of any of the citizens of the State of Maine, of any overt act which may, by possibility, lead to collision, and thereby, by engendering angry feelings, retard instead of accelerate the attainment of that object which we all have so much at heart, viz., the early and satisfactory adjustment of the boundary betwixt the State of Maine and this Province, for a time which may be sufficient to enable me to refer to my Government and to Her Majesty's Minister at Washington to relieve me from the obligation at present imposed on me of repelling by force any act of invasion or foreign jurisdiction which may be attempted within the disputed territory, and to furnish me with such further instructions on the subject as any more recent arrangement which may have taken place since the date of those instructions may render necessary. From the line of conduct pursued by your Excellency in the case of Mr. Greeley's mission, and from the language of the letter which your Excellency did me the honour to address to me, under the date 20th June last, I am necessarily led to infer that some arrangement regarding the disputed territory of which I am wholly ignorant, of which your Excellency must have been apprized and I have not, must have been entered into. In this view, I do not allow myself to entertain any doubt as to your Excellency's desire not to interrupt the good understanding which now happily subsists between England and the United States. I am induced confidently to hope, that on the explanation which I have thus frankly given to your Excellency, you will readily consent to meet my earnest request by preventing any proceedings which your Excellency is now apprized it is at present imposed on me as a duty to resist.

I have, &amp;c.

(Signed) J. HARVEY.

*Major-General, Lieut.-Governor.**The Governor of the State of Maine.*

P.S.—I add a postscript to say, with reference to the mere question of ascertaining the number of the inhabitants of the Madawaska Settlement, that if your Excellency had done me the honour of applying to me to furnish you with such information, I should have had the greatest pleasure in doing so, or in permitting any person deputed by your Excellency to inform himself on this subject on the spot. It was the assumption of the right to adopt this proceeding independent of the authorities of this province that it was, and as at present instructed is my duty to resist until the question of claim to the territory in dispute is decided, or my instructions modified by competent authority.

(Signed) J. H.

I send this letter by a special messenger, John Shore, Esq., by whom I shall feel much obliged by your Excellency's answer.

Inclosure 4 in No. 2.

*Warrant of Commitment of Ebenezer Greely.*

(L. S.)

*To J. A. Maclauchlan, Esq., Warden of the disputed territory now in the possession of, and under the Government of, the the British local authorities of this province of New Brunswick.*

(Signed) J. HARVEY.

*Lieutenant-Governor.*

WHEREAS it has been sufficiently made to appear to me, that one Ebenezer S. Greely, a foreigner, and citizen of the United States, acting under the authority and direction of the Government of the State of Maine, one of the subordinate states of the United States of America, has been apprehended and taken into custody by the magistrates of the parish of Madawaska, in the county of Carleton, in this province, for attempt-

VIII.

Further attempt of Maine to exercise jurisdiction in the disputed territory.

Second Mission of Ebenezer Greely.



## VIII.

Further attempt of  
Maine to exercise  
jurisdiction in the  
disputed territory.

Second Mission of  
Ebenezer Greely.

ing to take a census of the inhabitants of that parish, under the pretence that they are citizens of, and belong to, the said State of Maine, and that the territory in which they live is part of the said State of Maine, and subject to that Government; and whereas the offence for which the said Ebenezer S. Greely has been so apprehended is an act of foreign power against the jurisdiction of the British Government over a part of her colonial territory, I hereby command you to take the said E. S. Greely into your custody and to bring him to Fredericton, and then deliver him into the charge and custody of the sheriff of the county of York, as keeper of the county gaol at Fredericton; and I further command the said sheriff of the county of York to receive the said E. S. Greely into his custody, and him safely and securely to keep until my further order or the further order of the Lieutenant-Governor or Commander-in-Chief of this province for the time being shall be given according to Her Majesty's pleasure thereon; and I further command that any sheriff, constable, or other officer, into whose hands or custody the said E. S. Greely has been delivered or committed by any of the magistrates of the said parish of Madawaska, do forthwith, upon sight hereof, deliver the said Ebenezer S. Greely over into your charge, of which all magistrates, sheriffs, officers, and other persons and subjects of Her Majesty in this province, are to take due notice and to be aiding and assisting you so far as you may require the same in the due execution of this my warrant.

Given under my hand and seal at Government House, Fredericton, in the province of New Brunswick, this 6th day of September, in the first year of the reign of our Sovereign Lady Queen Victoria, and in the year of our Lord 1837.

By His Excellency's command,

(Signed)

W. F. ODELL.

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Inclosure 5 in No. 2.

*The Governor of the State of Maine to Sir J. Harvey.*

Sir, *State of Maine, Executive Department, Augusta, September 27, 1837.*

I HAVE had the honour to receive your Excellency's letter of the 10th instant. It informs me that you hold positive instructions from your Government, not to suffer any act of sovereignty or jurisdiction to be exercised by any foreign power within the territory in dispute betwixt Great Britain and the United States, until the right to that territory shall have been determined by negotiation; and that, if necessary to the enforcement of those instructions, the whole military force of British America will be placed at your disposal.

Your Excellency having expressed the belief that these facts were previously unknown to me, will not, of course, view as unexpected, the surprise which this information has created, announced as it is through an official organ by a Government profoundly pacific in its professions, and at a time of almost universal peace throughout the civilized world.

Your Excellency's communication having left no room for doubt as to the people against whom the note of alarm is sounded, my surprise is greater inasmuch as that people, even while suffering long-continued privation of their rights, and enduring accumulated indignities, have made no other returns than those of forbearance.

May there not be something peculiar in the character of that claim which can thus incite its advocates to anticipate from a peaceful people such measures as to justify the preparations referred to? Might it not be fairly deduced from these arrangements, that there exists some conscious weakness as to the foundation on which that claim is made to rest?

Your Excellency observes, that the subject of this controversy is now under negotiation. It would seem that among nations desirous of ascertaining and respecting each other's just rights, proofs and reasonings, as the means of bringing this subject to a satisfactory result, might be more appropriate than exhibitions of military power.

But whatever may be the considerations in which your Excellency's instructions have originated, I take pleasure in the conviction which I entertain, that your Excellency would gladly avoid becoming "an instrument of disturbing or endangering the friendly relations now so happily subsisting between the two nations." And I beg your Excellency to be assured of the sincerity of my desires, that every occasion of collision or jealousy may be avoided.

But while it gives me unfeigned pleasure to reciprocate these desires for the continued harmony of the two nations, duty requires me to say, that the citizens of Maine are actuated by a conviction *which can never be shaken*, that their territorial limits on their northern frontier do of right, and in fact, extend to the highlands which divide the waters of the St. Lawrence from those of the St. Johns'.

I am informed by your Excellency that Ebenezer S. Greely has returned to the province of New Brunswick, and there resumed the exercise of jurisdiction; and your Excellency requests an interposition on my part to prevent the adoption, by any citizens of this state, of any overt act which may by possibility lead to collision, and thereby by engendering angry feelings, retard instead of accelerate the settlement of that object which we all have so much at heart, to wit, the satisfactory adjustment of the question of boundary, for a time sufficient to enable your Excellency to refer to your Government, and to Her Majesty's Minister at Washington, to relieve your Excellency from the existing obligations of repelling by force any active invasion of a foreign jurisdiction which may be attempted within the disputed territory.

By the renewed exercise of jurisdiction on the part of Greeley, to which your Excellency refers, I understand is meant his attempt to complete the census of Madawaska, which was unfinished at the time of his arrest.

Happy as I should certainly feel in complying with any request made by the Executive of New Brunswick, I am precluded from any action in relation to Greeley. His authority to take the census was derived from an act of the Legislature of this State, and he received his appointment, not from this department, but from the county commissioners of the county of Penobscot. However desirous the Executive of this state may be to acquiesce in your Excellency's wishes, it would therefore be beyond their power to interdict the proceedings of Greeley.

Please accept my acknowledgements for the frankness with which your Excellency has made known the instructions of your Government.

*His Excellency, Sir John Harvey,*  
*&c. &c. &c.*

(Signed)

I am, &c,  
 ROBERT P. DUNLAP.

# VIII.

Further attempt of  
 Maine to exercise  
 jurisdiction in the  
 disputed territory.

Second Mission of  
 Ebenezer Greeley.

No. 3.—*Sir J. Harvey to Lord Glenelg.*—(Received from the Colonial Office.)

(Extract)

*Government House, Fredericton, October 10, 1837.*

P.S.—I ANNEX for your Lordship's information, extract of a report received by me this morning from the warden of the "Disputed Territory," dated Grand Falls, October 8, by which it will be seen that the exploring party adverted to in my despatch No. 48, have returned to the State of Maine through the *woods* (an undertaking of great difficulty and fatigue, being *up stream*) for fear of being arrested by the Madawaska magistrates, to whom, however, no such instructions had been given, as there is every difference betwixt merely *passing through* a projected line of road, and cutting and opening such a road.

Inclosure 1 in No. 3.

*Extract from a Report from the Warden of the Disputed Territory, dated Great Falls, Sunday, October 8, 1837.*

THE Americans who made their appearance at or near the Fish River, previous to your Excellency's leaving this have returned. It appears there were eight or nine of them, which formed the party to explore the line of road from the Little Machias on the Restook, to intersect the St. John River between Baker's and Fish River, six miles apart; and having accomplished this duty, which they report favourably upon, have now returned by the same route, supposing, I imagine, that the authorities here would have arrested them if they had come this way, particularly as the Bangor people speak confidently that such was the tenor of your Excellency's instructions to the magistrates.

Inclosure 2 in No. 3.

*Sir. J. Harvey to Lord Glenelg.*

(Extract)

*Government House, Fredericton, October 17, 1837.*

I HAVE the honour to transmit a copy of a communication which I felt it proper to address to the Governor of the State of Maine, in acknowledgement of his letter to me of the 27th ultimo, of which a copy was transmitted to your Lordship in my despatch, of the 7th instant.

Inclosure 3 in No. 3.

*Sir J. Harvey to the Governor of the State of Maine.*

*Government House, Fredericton, New Brunswick,*  
*October 12, 1837.*

Sir,

I HAVE the honour to acknowledge your Excellency's communication of the 27th ultimo, in answer to mine of the 10th, and to assure you that the recent change in the quarters of a small portion of Her Majesty's troops in this province was a strictly defensive, and precautionary measure, and had no other object than give protection and support to the civil authorities of the province, in enabling them to resist any attempts which might be made by "armed" citizens of the State of Maine to renew the exercise of jurisdiction within the "Disputed Territory," a purpose distinctly intimated by Mr. E. S. Greeley, and loudly threatened by the public press within the state.

On the receipt of your Excellency's letter I had great pleasure in recalling the detachments of troops which had moved towards the boundary line of the territory in question, as I now have in renewing to your Excellency the assurance that I am desirous of nothing so much as to convince your excellency, and our neighbours of the State of Maine, that it is the anxious wish of myself and Her Majesty's subjects in this province to cultivate the most friendly feelings and intercourse with them, provided they will abstain from any acts which I may be compelled to view as disturbing the existing jurisdiction of this province within the territory claimed by the two nations until the definitive right to it can be amicably determined.

I have, &c.

*The Governor of the State of Maine.*

(Signed) J. HARVEY.



No. 4.—*Henry S. Fox, Esq. to Viscount Palmerston. (Received Nov. 25.)*

My Lord,

Washington, Nov. 5, 1837.

## VIII.

Further attempt of  
Maine to exercise  
jurisdiction in the  
disputed territory.

Second Mission of  
Ebenez Greely.

I HAVE had the honor, this day, to receive your Lordship's despatch of the 31st of August, with its several important inclosures. The despatch was forwarded to me by Her Majesty's Consul at Boston, by a special messenger, according to directions from your Lordship's office. It was received by the Consul at Boston by the way of Halifax, on the 3rd instant.

I shall have the honor to address your Lordship at large by the return of the special messenger, whom I shall despatch in time to enable him to reach Boston before the departure of the British mail boat for Halifax. But I hasten, in the meantime, to acknowledge the due receipt of your Lordship's communication; and to state that I had already, upon occasion of the second offence, and consequent second arrest of Mr. Greely, anticipated to a certain extent that portion of your Lordship's instructions which is contained in the third and fourth paragraphs of your Lordship's despatch. I transmit the present letter by the ordinary post by the way of New York.

I have the honor to be, &amp;c.

Viscount Palmerston,  
&c. &c. &c.

(Signed) H. S. FOX.

No. 5.—*A. Stevenson, Esq. to Viscount Palmerston.—(Received November 21.)*

23, Portland Place, November 18, 1837.

THE Undersigned, Envoy Extraordinary and Minister Plenipotentiary from the United States, had the honor on the 10th of August last, of addressing to Lord Viscount Palmerston, Her Majesty's Principal Secretary of State for Foreign Affairs, an official note, complaining of the arrest and imprisonment of Ebenezer S. Greely, a citizen of the United States, by the provincial authorities of New Brunswick, and demanding, by order of his Government, the immediate release of Mr. Greely from imprisonment, with suitable indemnity for the wrongs he had sustained.

To this communication a note was received from his Lordship, under date of the 22nd of the same month, in which an assurance was given that an early answer to the complaint might be expected. No answer, however, has yet been received, and it is with unfeigned regret, that the Undersigned finds himself constrained, in again inviting the attention of Her Majesty's Government to the subject, to accompany it with another complaint of a second outrage committed by the authorities of New Brunswick upon the rights and liberty of this individual.

From recent information received, it appears, that shortly after the first arrest and imprisonment of Mr. Greely, he was, by the orders of the Lieutenant-Governor of New Brunswick, released from confinement, but was immediately thereafter again taken into custody by his authority, and recommitted to the gaol of Fredericton, where he is now detained. This fact having been communicated by the Governor of Maine to the President of the United States, (in an official communication setting forth the circumstances under which it was done, a copy of which is herewith transmitted) the Undersigned has received the special instructions of his Government to bring the subject without delay to the notice of Her Majesty's Government, in order that immediate steps may be taken for the liberation of Mr. Greely and indemnity made for the injuries he has suffered.

Having in the first note which he had the honour of addressing to Lord Palmerston stated the grounds upon which the release of this individual was demanded, and the expectations of his Government in relation to the subject, and having waved the discussion of the questions of right and jurisdiction, which he still intends doing, it will not be needful to do more on this occasion, than express to his Lordship the painful surprise and regret with which the President has received information of this second outrage on the part of the authorities of New Brunswick, and to repeat the assurances heretofore given, that such proceeding can be regarded in no other light than a violation of the rights and sovereignty of the United States, and entirely irconcilable with that mutual forbearance, which it was understood would be practised by both Governments pending the negotiation.

The circumstances under which these recent attempts to enforce jurisdiction have been made, show, that in the most favorable aspect in which they can be regarded they were wholly indefensible.

The act for which Greely was arrested and imprisoned, so far from having been committed within the acknowledged dominions of the British crown, and beyond the limits of the disputed territory, and therefore liable to be treated as a violation of territorial jurisdiction, took place, as appears by the statement of the Governor of Maine, whilst he was employed within the limits of that State and under its authority, in enumerating the inhabitants of the county of Penobscot.

By what authority then the provincial Government of New Brunswick felt itself

justified in exercising such acts of sovereign power, the Undersigned is at a loss to conceive, unless indeed, upon the ground, that the jurisdiction and sovereignty over the disputed territory, pending the controversy, rests exclusively with Great Britain. If such should turn out to be the fact, it can hardly be necessary again to repeat the assurances which have been heretofore given, that in any such claim of power the Government of the United States cannot acquiesce.

Upon the consequences which would unavoidably result from attempting to exercise such jurisdiction, it is needless to enlarge. It must now be apparent that all such attempts, if persevered in, can produce only feuds and collisions of the most painful character; and besides increasing the feelings of international discord, which have already been excited between the contending parties, they will close every avenue to an amicable adjustment of a controversy which it is so much the desire and interest of both Governments to accomplish. Ought it not then to be the earnest endeavor of the two Governments to avoid doing any thing which can have a tendency to lead to such mischievous consequences?

It is under this view of the subject, that the Undersigned has been instructed again to remonstrate against these proceedings of the authorities of New Brunswick, as a violation of the rights of Maine, in the person of her agent, and to protest in the most solemn manner against the future exercise of all such acts of jurisdiction and sovereignty over the disputed territory, or the citizens of the United States, residing within its limits, until a final adjustment of the controversy takes place.

The Undersigned therefore cannot and ought not to close this note without again invoking the early and earnest attention of Lord Palmerston, and that of Her Majesty's Government to this painful subject.

It is one of deep and mutual interest, to the parties concerned, and the delicacy and embarrassments which surround it, are justly appreciated by the Government of the United States. Deeply regretting, as that Government does, the collisions of authority to which both countries have been so repeatedly exposed by the delay that has taken place in the final settlement of the main question, it is sincerely desirous, as the undersigned has taken occasion repeatedly to assure Lord Palmerston, to have it brought to a speedy and amicable termination. This can only be done, by measures of mutual forbearance and moderation, on the part of both Governments. To this end, the efforts of the American Government, have been earnest, persevering and constant. It has done, as it will continue to do, every thing in its power to induce the State of Maine to pursue a course best calculated to avoid all excitement and collision between the citizens of that State and the inhabitants of New Brunswick; or which would tend in any manner, to embarrass the mediatorial action of their two Governments on the subject; but it cannot be expected, if the authorities of New Brunswick still persevere in attempting to exercise jurisdiction over the disputed territory, by the arrest and imprisonment in foreign jails of citizens of Maine for performing their duty under the laws of their own State, and within what is believed to be her territorial limits, that measures of retaliation will not be resorted to by Maine, and great mischiefs ensue. Indeed, under existing circumstances, and in the nature of human connections, it is not possible, should such a course of violence be continued, to avoid collisions of the most painful character, for which the Government of the United States cannot be responsible, but which both Governments would equally deplore.

It was doubtless with a view of guarding against these consequences that the understanding took place, that each Government should abstain from exercising jurisdiction within the limits of the disputed territory, pending the settlement of the main question.

The Undersigned, therefore, persuades himself, that these proceedings of the Colonial Government may have taken place, without a careful examination of the important questions involved in them, or the consequences to which they might lead; rather than under instructions from Her Majesty's Government, or with a deliberate view of asserting and enforcing territorial and jurisdictional rights, over the contested territory.

In looking back, as he does with satisfaction to the conciliatory spirit in which the negotiation has heretofore been conducted, and the moderation which both Governments have observed, the Undersigned cannot permit himself to doubt, but that upon a careful review of the whole subject, Her Majesty's Government will see fit not only to mark with its disapprobation this last proceeding of her Colonial Government, and direct the immediate liberation of Mr. Greely from imprisonment, with ample indemnity for the wrongs he may have sustained, but that it will see the propriety of giving suitable instructions to the authorities of New Brunswick, to abstain for the future from all acts of that character; which can have no other tendency than to increase the excitement and jealousies which already prevail, and retard the final and amicable adjustment of this painful controversy.

The Undersigned requests Lord Palmerston to accept, &c.

Viscount Palmerston.  
&c. &c. &c.

(Signed) A. STEVENSON.

Inclosure in No. 5.

*The Governor of the State of Maine to the President of the United States.*

*State of Maine, Executive Department,*

*September 18, 1837.*

Sir,

I LOSE no time in advising your Excellency that Ebenezer S. Greely, Esquire, a citizen

VIII.

Further attempt of  
Maine to exercise  
jurisdiction in the  
disputed territory.

Second Mission of  
Ebenezer Greely.



## VIII.

Further attempt of  
Maine to exercise  
jurisdiction in the  
disputed territory.

Second Mission of  
Ebenezer Greely.

of this State, while employed within its limits, and under its authority, in taking an enumeration of the inhabitants of the county of Penobscot residing north of the surveyed and located townships, has been arrested a second time by the provincial authorities of New Brunswick, and is now in confinement in the jail at Frederickton. It becomes my duty to request that prompt measures be adopted by the Government of the United States to effect the release of Mr. Greely.

I have the honor to be, &c.  
*His Excellency Martin van Buren.* (Signed)  
&c. &c. &c.

ROBERT P. DUNLOP.

No. 6.—*J. Stephen, Esq., to J. Backhouse, Esq.*

Sir,

*Downing Street, December 14, 1837.*

I AM directed by Lord Glenelg to acknowledge your letter of the 29th ultimo, transmitting the copy of a note from Mr. Stevenson, the Minister of the United States, on the subject of the arrest and continued imprisonment in New Brunswick of Ebenezer Greely. In forwarding this letter you express Lord Palmerston's desire to be furnished with Lord Glenelg's opinion as to the answer to be returned to it.

It appears to Lord Glenelg that in the note under consideration, Mr. Stevenson has himself supplied the grounds on which his demand for the liberation and indemnification of Greely should be determined.

After describing the disastrous results of collisions between the citizens of Maine and the inhabitants of New Brunswick, Mr. Stevenson observes, "it was doubtless with a view of guarding against these consequences that the understanding took place that each should abstain from exercising jurisdiction within the limits of the disputed territory, pending the settlement of the main question." To the justice of this observation Lord Glenelg entirely subscribes, and he would remark that Her Majesty's Government, have always endeavoured faithfully to act up to this agreement, even on occasions when that course, as in the recent instance of the Quebec and St. Andrews railroad, involved a considerable sacrifice.

But while they are thus scrupulous in fulfilling their part of the existing arrangement, they have a right to insist on an equal observance of it by the Government of the United States, and if necessary, to enforce such observance by compulsory measures. Now it cannot be denied, that the act for which Greely was arrested, was a very serious infringement of the understanding in question. It was in fact a summons to the inhabitants of Madawaska to renounce their allegiance to Great Britain, and to acknowledge themselves citizens of Maine. To have acquiesced, knowingly, in such a proceeding, would not only have been to betray the people of Madawaska, who, it is evident, from their addresses to Sir J. Harvey, are anxious to continue under the British Government, but would have established a precedent most detrimental to the claims of Great Britain.

It became therefore, the imperative duty of the British authorities in New Brunswick, to put an immediate stop to it. In the execution of this duty, they appear to have acted with all possible consideration towards Greely. It was not, till after his repeated refusal to desist that he was arrested.

He was soon released on parole, and almost immediately afterwards was permitted, at the instance of the British Minister at Washington, to return to Maine. He again came to New Brunswick, and recommenced his operations, and thus by his own obstinacy compelled the Lieutenant-Governor to arrest him a second time. He has since been confined at Frederickton, where he will no doubt be brought to trial at the next Session of the Provincial Courts.

After fully considering the circumstances, Lord Glenelg can see no reason for complying with the demand for the liberation of Greely, and for an indemnity to him on account of his imprisonment.

The case is exactly parallel to that of Baker, who in the year 1828, was brought to trial at New Brunswick, for a similar offence in the same district.

In that instance also a demand for indemnification was preferred to the British Government, and was answered at great length by Lord Aberdeen, in a note, of which a copy was enclosed in your letter to Mr. Hay, of the 16th August, 1828. To that argument on the general question, Lord Glenelg feels that he could add nothing, and he would therefore refer Lord Palmerston to it, for a full explanation of the grounds, on which he conceives that the present demand should be resisted.

I have the honour to be, &c.,  
*John Backhouse, Esq.,* (Signed) JAS. STEPHEN.  
&c. &c. &c.

No. 7.—*A. Stevenson, Esq. to Viscount Palmerston.*

*23, Portland Place, February 26, 1838.*

THE Undersigned, Minister Plenipotentiary from the United States, has the honor to call the attention of Lord Palmerston, her Majesty's Principal Secretary of State for Foreign Affairs to the two communications which he had the honor heretofore of addressing to his Lordship, in relation to the arrest and imprisonment of Ebenezer S. Greely, a citizen of the United States, by the authorities of the Province of New Brunswick.

As the proceeding was one, which from its peculiar character justified the expectation of an early and favourable consideration by Her Majesty's Government, and as the first communication addressed to his Lordship was in the month of August last, and the second as far back as November, the Undersigned had flattered himself with the hope that he should long since have been enabled to have communicated to his Government the decision of the case and the release of Mr. Greely from confinement. Disappointed in this expectation it now becomes his duty again to address his Lordship on the subject, and urge its consideration upon her Majesty's Government.

Whilst the Undersigned is satisfied that there has been no disposition on the part of Her Majesty's Government to protract, unnecessarily, the decision of this case, he must yet be permitted to express his deep regret that it has been so long delayed, and to repeat to Lord Palmerston, what he has on several occasions had the honor of verbally stating, and of which his Lordship must be sensible, that any further delay in the adjustment of this matter by Her Majesty's Government, can have no other effect than to aggravate the injuries which Mr. Greely has already been doomed to suffer, and increase the excitement which unhappily exists between the inhabitants of the two countries contiguous to the disputed territory.

The representations which the Undersigned has heretofore had the honor of making to his Lordship will render it unnecessary to add any further remarks upon the merits of the case. He will therefore content himself with again invoking the early and favourable consideration of Her Majesty's Government to this painful subject, and asking, as he respectfully begs leave to do, that he may, with as little delay as possible, be made acquainted, for the information of his Government, with the final determination of that of Her Majesty.

The Undersigned avails himself, &c.

Viscount Palmerston, G.C.B.  
&c. &c. &c.

(Signed)

A. STEVENSON.

VIII.

Further attempt of  
Maine to exercise  
jurisdiction in the  
disputed territory.

Second Mission of  
Ebenezer Greely.

No. 8.—Viscount Palmerston to Andrew Stevenson, Esq.

Foreign Office, March 12, 1838.

THE Undersigned, Her Britannic Majesty's Principal Secretary of State for Foreign Affairs, had the honor to acknowledge, on the 22nd of August, 1837, the receipt of the note dated the 10th of the same month, which Mr. Stevenson, Envoy Extraordinary and Minister Plenipotentiary from the United States of America, addressed to the Undersigned complaining of the arrest and imprisonment of Mr. Ebenezer Greely, a citizen of the United States, by the authorities of New Brunswick; and demanding the release of Mr. Greely, and suitable indemnity for the wrongs which he was alleged to have sustained by those proceedings.

The Undersigned had afterwards the honor duly to receive Mr. Stevenson's second note, dated the 22d of November, 1837, referring to his previous note above-mentioned, and complaining that Mr. Greely had been a second time arrested under circumstances similar to the first; and the Undersigned has now the honor to acknowledge the receipt of Mr. Stevenson's further note, dated the 26th ult., referring to the two former, and pressing for an answer thereupon.

The Undersigned regrets extremely that any delay should have taken place in replying to Mr. Stevenson's representations upon this subject, and he trusts that Mr. Stevenson will readily believe the assurance that the delay has not been occasioned by any indifference to the matter of his complaint, or by any insensibility to the importance of the question which that complaint involves. In fact, nearly at the same time that the Undersigned received Mr. Stevenson's first note, he received from Her Majesty's Secretary of State for the Colonial Department the official documents which had arrived from New Brunswick concerning the arrest of Mr. Greely, upon the occasion to which Mr. Stevenson's note referred; and thereupon the Undersigned forthwith transmitted to Mr. Fox, Her Majesty's Minister at Washington, instructions directing him to lose no time in bringing the matter under the notice of the American Government for their serious consideration. It is unnecessary for the Undersigned here to repeat, in detail, the circumstances under which the arrest of Mr. Greely took place, as Mr. Stevenson and the Government of the United States are fully acquainted with the facts of the case. But the Undersigned must observe that the offence for which Mr. Greely was arrested and imprisoned on the first occasion, and which was a second time committed under aggravated circumstances, with the knowledge and sanction of the authorities of the State of Maine, amounted to an attempt on the part of that State, to assert, in the Madawaska settlement, an act of sovereignty, wholly incompatible with the rights and the duties of the British Government in the disputed territory; pending the final settlement of the boundary between the two countries; and that the pretensions advanced by the authorities of Maine on this occasion, if persevered in, must lead to hostile collisions between that State and the Government of New Brunswick. Mr. Fox accordingly was instructed to address himself to this effect to the Secretary of State of the United States, and at the same time to express the conviction of Her Majesty's Government that the President would immediately interpose his authority, for the repression of any proceedings on the part of the State of Maine, which might be likely to give rise to disastrous consequences. Mr. Fox was further directed to state that the British Government would feel it to be their duty to oppose a temperate and firm resistance to any aggressions of American citizens; and to employ constitutional powers for the pro-



## VIII.

Further attempt of  
Maine to exercise  
jurisdiction in the  
disputed territory.

Second Mission of  
Ebenezer Greely.

tection of British subjects, and for the punishment of such persons as might be duly convicted before the legal tribunals of Her Majesty's possessions in North America, of any attempt to interfere with the provisional exercise of jurisdiction by Great Britain, or to disturb the public peace within the disputed territory.

It was only a few days after the receipt of Mr. Stevenson's note of the 18th of Nov. last, relative to the second arrest of Mr. Greely, that the Undersigned received from Mr. Fox a despatch, acknowledging the instructions above referred to; in which despatch Mr. Fox stated that he had already, on the occasion of the second offence, and consequent second arrest of Mr. Greely, anticipated, to a certain extent, those instructions, and that he would shortly send home a full report upon the subject.

The Undersigned having been in constant expectation of receiving this report, has delayed to answer Mr. Stevenson's second note, as well as the first, conceiving that he would be enabled to do so more satisfactorily after he had been made acquainted with the result of Mr. Fox's communications at Washington upon the same subject. Mr. Fox's expected report, however, has not yet been received, and the Undersigned will no longer delay to answer Mr. Stevenson's representations. In performing this task, the Undersigned regrets, that his duty compels him at once, distinctly to deny the pretensions which the Government of the United States have of late years advanced, and which, it would appear, from Mr. Stevenson's notes, they reassert on the present occasion, in derogation of the right of the British Government to exercise jurisdiction within the disputed territory, until the boundary question is settled.

The case of the arrest and trial of Mr. Greely is precisely parallel to that of the arrest and trial of Mr. Joseph Baker, an American citizen, by the authorities of New Brunswick, in the year 1827; which, as Mr. Stevenson is aware, subsequently became the subject of a correspondence between the Representative of the United States in London, and the Secretary of State for Foreign Affairs. The right of the British Government provisionally to exercise jurisdiction over the disputed territory, was on that occasion fully and clearly, and in the opinion of the Undersigned, unanswerably laid down in the note of the Earl of Aberdeen to Mr. Lawrence, dated the 14th of August, 1828; to which note the Undersigned takes the liberty of referring Mr. Stevenson on the present occasion.

The Undersigned has the honor to renew to Mr. Stevenson the assurances of his high consideration.

*Andrew Stevenson, Esq.*

(Signed)

PALMERSTON.

No. 9.—*A Stevenson, Esq. to Viscount Palmerston.*

*23, Portland Place, March 20, 1838.*

THE Undersigned, Envoy Extraordinary and Minister Plenipotentiary from the United States, has now the honor of acknowledging the receipt of the note addressed to him by Lord Palmerston, Her Britannic Majesty's Principal Secretary of State for Foreign Affairs, under date of the 12th instant, in reply to the official communications made by the Undersigned to his Lordship on the 18th of November and 26th of February last, upon the subject of the late proceedings of the Colonial Authorities of New Brunswick against Mr. Ebenezer S. Greely, a citizen of the state of Maine, and for which the Government of the United States, regarding them as an infringement of national and individual rights, had instructed the Undersigned to demand reparation from the Government of Her Britannic Majesty.

The Undersigned can but express his extreme and unfeigned regret, in now learning from Lord Palmerston, that these proceedings of the Authorities of New Brunswick are not only approved and justified, and all reparation for the wrongs inflicted on Mr. Greely denied; but that it is the settled determination of Her Majesty's Government to continue to assert and enforce, by all the constitutional means in its power, its exercise of Jurisdiction within the disputed Territory, until the question of Boundary, under the stipulations of the Treaty, shall be definitively settled. That this determination on the part of Her Majesty's Government will be received with painful surprise and concern by that of the United States, the Undersigned need hardly assure Lord Palmerston.

In communicating this decision, Lord Palmerston asserts, that the case of Mr. Greely is precisely parallel to that of Mr. John Baker, an American citizen who was arrested and imprisoned by the Authorities of New Brunswick in the year 1827, for a similar offence, and which became, at the time, the subject of a correspondence between the Representatives of the two countries, and was approved and justified by Her Majesty's Government. His Lordship moreover is pleased to say that, upon that occasion, the right of Jurisdiction on the part of Great Britain was unanswerably maintained by the Earl of Aberdeen (the then Principal Secretary of State for Foreign Affairs) in the Note addressed by him to Mr. Lawrence the American Chargé d'Affaires, in London, on the 14th of August, 1828, to which Lord Palmerston refers, as rendering unnecessary on his part, any further discussion of the merits of the present case. Under such circumstances, the Undersigned is not aware that it would be either necessary or proper for him to do more than to transmit his Lordship's note to his Government, and again protest, as it is his duty to do, as well against the decision which has been made, as the doctrines contained in the Earl of Aberdeen's note, now re-affirmed by Her Majesty's Government, as the basis of its present decision.

In the principles and doctrines laid down in this Note of the Earl of Aberdeen,

it is proper that the Undersigned should state in the most explicit manner, that the Government of the United States neither have or can consent to acquiesce; on the contrary, he begs to assure Lord Palmerston, that both before and subsequent to the arrest and imprisonment of Mr. Baker, the Government of the United States not only resisted the right of Jurisdiction asserted by Great Britain over this Territory, but declared its fixed determination not to acquiesce in its exercise. In proof of this, the Undersigned need only refer his Lordship to the past history of the negotiation, and more particularly to the correspondence which took place between the Representatives of the two Governments in London and Washington.

However strong then the convictions of Lord Palmerston may be, as to the unanswerable character of Lord Aberdeen's vindication of the claim of Her Majesty's Government to the Jurisdiction over this Territory, the Undersigned, after the most careful review of the arguments contained in that note, must be permitted to say, that his are not the less so as to the just claims of his own Government. In the principles assumed by the Earl of Aberdeen, as to the foundation of his argument, his Lordship seems to have entirely misapprehended, as well the grounds upon which the United States rest their claim to their property in contest, as those upon which it resists that of Her Majesty's Government. This will be made quite apparent, by a brief examination of his Lordship's Note and the history of the negotiation.

Lord Aberdeen's remarks are comprehended under three heads. In the first place, his Lordship assumes that the United States derive their claim to this Territory, under the provisions of the Treaty of 1783, by which their Sovereignty and Independence were acknowledged by Great Britain, and thereby in effect admitting (as his Lordship supposes), the prior title of the British Crown to the property.

Secondly.—That Great Britain had never parted with the Possession of the Territory, and there had been no actual delivery of it into the possession of the United States under the Treaty, and consequently, whatever rights of Sovereignty and Jurisdiction had been exercised since its execution have (until the recent attempts on the part of the State of Maine) been exercised by Her Majesty's Government, and that, consequently, Great Britain never having been divested of her ancient right of jurisdiction, the character of the Territory had undergone no change since the period antecedent to the Treaty of 1783; and,

Thirdly, that the question of eventual Sovereignty being in doubt, it was consistent with the acknowledged rule of law, that where such doubts existed, the party who had once clearly the right, and had retained the actual possession, should continue to hold it until the question was finally settled.

Now upon the first point assumed by Lord Aberdeen, it is proper to remark, that the United States do not rest their claim of right upon the provisional Treaty of 1782, or the definitive one of 1783, by which their Sovereignty and Independence was acknowledged. The provisions of the Treaty of 1783, as to Title and Boundaries, are not to be, nor have they ever been regarded by the United States, as matters of Grant or Cession on the part of the British Government. The rights of the United States, as Independent and Sovereign States, although acknowledged by that Treaty, were not acquired under it, but by a long and bloody war waged for Independence. The Treaty of 1783 was, in fact, a Treaty of peace and dismemberment, forming two Empires out of one, and laying down the fundamental rights of each. The thirteen States composing the Union at the period of their separation, had been from their first establishment, Separate and Independent States, with Separate and Independent Governments, and in this state their several Boundaries were fixed. By the Treaty of Peace, their Boundaries, like their Independence, were not granted, but acknowledged, and the acknowledgment on the part of Great Britain, was like that of other Nations. It was therefore a Treaty for the division of coeval rights, and not a grant or cession of property, and each State of course became entitled to the rights enjoyed by it before the separation.

The limits of the several States, and of course those of Massachusetts, having been fixed before the Revolution, remained the same after, and were consequently not derived from the Treaty stipulations, but from the fact of declaring themselves Independent.

The Rights and Sovereignty of the United States were therefore not granted, but acknowledged by the Treaty, and as such cannot be considered in the light of a Grant or cession of Territory, but simply, what it was intended to be, an acknowledgment of previously existing rights.

And here the Undersigned will take occasion to remark, that this is no new doctrine on the part of the American Government, asserted now for the first time in relation to the subject of their North-eastern Boundary. It is the doctrine which the United States have always maintained in their intercourse with foreign nations, and with none more so than Great Britain. In the important negotiation between the two Governments in the year 1815, in relation to the Fisheries, the Treaty of 1783 became incidentally the subject of a correspondence between Mr. John Quincy Adams, the then Minister of the United States, in London, and Earl Bathurst. Upon that occasion, the nature and character of that Treaty, and the rights secured under it, were discussed and elucidated by Mr. Adams, with a power and ability of argument, which the Undersigned can neither add to or improve. To that correspondence he now begs leave to refer Lord Palmerston.

There is no foundation then for Lord Aberdeen's supposing, that the claim of the United States rests upon the stipulations of the Treaty of 1783.

Nor is his Lordship more fortunate in the other grounds relied on as to the Possession

## VIII.

Further attempt of Maine to exercise jurisdiction in the disputed territory.

Second Mission of Ebenezer Greely.



## VIII.

Further attempt of  
Maine to exercise  
jurisdiction in the  
disputed territory.

Second Mission of  
Ebenezer Greely.

of the Territory by Great Britain, before the war of the Revolution, and there having been no actual delivery of Possession to the United States at the time of the execution of the Treaty. There was in fact no Settlement within the limits of the disputed Territory, before the American Revolution. It was first settled by the French from Nova Scotia after that period, and the greater part of it was admitted by Great Britain as late as 1814, to have been actually unoccupied and waste, before the Separation between the two Countries. Indeed, the right of Jurisdiction over the country watered by the Madawaska and the Aroostook, commenced with the period of the Settlement of the Boundaries of the State of Massachusetts. That State conceiving her right of sovereignty and Jurisdiction co-extensive with her title, took steps from time to time to dispose of her unappropriated and waste lands; and more than thirty years ago she made large Grants of land within the disputed Territory, for public and private uses, and would doubtless have continued to do so, until the whole was exhausted, if it had been applied for and deemed beneficial.

To this proceeding on the part of the State of Massachusetts, it is believed, no objection was interposed at the time by the British Government. In fact, to a large portion of the Territory over which Her Majesty's Government now asserts the right of Jurisdiction, no claim was set up by Great Britain, until after the Treaty of Ghent, and the commission organized under it in 1814, and it was after that period, that the British Jurisdiction invaded the Aroostook Settlement. Under these circumstances, it is not without surprise and regret, that the Undersigned now learns from Lord Palmerston's Note, that in denying the right of jurisdiction on the part of Great Britain over this Territory, and claiming it as the rightful property of Maine, the Government of the United States are considered by that of Her Majesty, as advancing pretensions of a recent character, in derogation of the just rights of Her Britannic Majesty. Whether such a charge is justly attributable to the Government of the United States, or that of Great Britain, it does not belong to the Undersigned to discuss or decide.

These are the explanations which the Undersigned has felt it his duty to make in vindication of the principles upon which the claim of his Government rests, and under which it has acted. He will forbear however to press the subject upon Lord Palmerston's attention, satisfied as he is, after the determination announced in his Lordship's note, that any farther discussion at this time can be productive of no practical benefit.

The Undersigned, therefore, has no other duty to perform, than to forward to his Government his Lordship's Note, and again solemnly protest against the whole proceeding on the part of Her Majesty's Government, as an infringement of the Rights and Sovereignty of the United States, and to assure Lord Palmerston, that whilst the Government of the United States is most sincerely desirous to settle this controversy, in relation to the North eastern Boundary, and will be, as it has been, at all times prepared to listen to any suggestion for its adjustment in an amicable and advantageous manner; yet if Her Majesty's Government shall continue to enforce in the manner indicated in Lord Palmerston's Note, a claim of power so questionable, both in principle and practicability, one so deeply affecting the peace and friendly relations of the two Countries, and so injurious to its consequences, it cannot but be expected that suitable measures will be adopted by the Government of the United States, for the purpose of maintaining, not only its own rights of Sovereignty and Jurisdiction, but protecting from aggression and outrage, the Citizens of the United States residing within the disputed Territory.

The Undersigned renews to Lord Palmerston assurances of his distinguished consideration.

*Viscount Palmerston, G.C.B.*  
&c. &c. &c.

(Signed) A. STEVENSON.

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No. 10.—*Viscount Palmerston to A. Stevenson, Esq.*

*Foreign Office, April 16, 1838.*

THE Undersigned, Her Majesty's Principal Secretary of State for Foreign Affairs, has the honour to acknowledge the receipt of the Note of Mr. Stevenson, Minister Plenipotentiary of the United States of America, dated the 20th ultimo, in reply to the Note of the Undersigned, dated the 12th ultimo, relative to the proceedings of the Authorities of New Brunswick towards Mr. Ebenezer Greely, a Citizen of the United States.

In answer to the argument which is employed by Mr. Stevenson, with respect to the Boundaries between the British Possessions and the United States, the Undersigned begs leave to observe, that the Treaty of 1783 laid down the Boundary between the United States and the British Possessions, not by reference to the then existing, or to the previously existing, Boundaries of the British Provinces, whose Independence was then acknowledged, but with reference to the geographical description contained in the Treaty itself; and therefore the question, whether any particular district is or is not comprised within the limits of the United States, cannot be determined by reference to what was, or was not the extent of any particular State, when that State was a British Province; but can only be decided by a reference to the geographical description of the Boundary contained in the Treaty; and, consequently, the argument used in Lord Aberdeen's Note of the 14th of August, 1828, appears to the Undersigned to stand good and conclusive.

With respect also to Mr. Stevenson's statement, as to the origin of the claim of right to exercise, pending the negotiations between the two Countries, Jurisdiction over the Country watered by the Madawaska and the Aroostick, the Undersigned must beg leave to repeat, what has been already stated in Lord Aberdeen's Note just referred to, that until a

very recent period, the right of Great Britain to exercise acts of Sovereignty within the disputed Territory had never been called in question by the Government of the United States; that the representation which was addressed by Mr. Clay to the British Chargé d'Affaires at Washington, on the 27th of March, 1826, was the first occasion when an objection of any kind was advanced by the Government of the United States, to the proceedings of the British in the District jointly claimed by the two Governments; and that even the objection then made was not directed against the exercise of Jurisdiction on the part of Great Britain, which was then, and had long been notorious, but against the depredations committed by individuals, who, by cutting wood, and by other acts, were rendering this District of less value to the party to whom it should finally be assigned.

The Undersigned, &c.

Andrew Stevenson, Esq.  
&c. &c. &c.

(Signed)

PALMERSTON.

VIII.

Further attempt of  
Maine to exercise  
jurisdiction in the  
disputed territory.

Second Mission of  
Ebenezer Greely.

No. 11.—A. Stevenson, Esq. to Viscount Palmerston.

23, Portland Place, April 21, 1838.

THE Undersigned, Minister Plenipotentiary of the United States, has the honor to acknowledge the receipt of the Note of Lord Palmerston, Her Majesty's Principal Secretary of State for Foreign Affairs, under date of the 16th instant, in answer to that of the Undersigned of the 20th ultimo, relative to the proceedings of the Authorities of New Brunswick towards Mr. Ebenezer S. Greely, a Citizen of the United States.

The Undersigned is not aware, that it is necessary for him to make any reply to the observations contained in Lord Palmerston's Note, further than to correct the mis-apprehension into which his Lordship seems to have fallen, in relation to some of the arguments which the Undersigned has heretofore had the honor of submitting, and to add such explanatory observations as have been suggested by his Lordship's last Note.

In the first place it is proper to remark, that Lord Palmerston mis-apprehends entirely that part of the argument intended as a reply to the Earl of Aberdeen's Note to Mr. Lawrence of the 14th of August, 1828.

In discussing the propositions put forth by Lord Aberdeen, the Undersigned did not mean to be understood, as denying that the Treaty of 1783 provided for the settlement of the question of Territorial Boundaries between Great Britain and the United States by reference to a *geographical description*. The fact is readily admitted, as Lord Palmerston states it; but it is not perceived how the admission can in any manner be made to diminish the force of the argument which the Undersigned has had the honor of offering or strengthen that of the Earl of Aberdeen, which Lord Palmerston re-affirms.

By the Treaty of 1783, Great Britain not only acknowledged the several States to be Sovereign and Independent, but relinquished all claim to their Government *property and territorial rights and every part thereof*. Now the enquiry which naturally suggests itself in connection with this provision is this: what territorial rights were thus intended to be relinquished, but those which had previously existed, and were enjoyed by the respective States at the time of the adoption of the Treaty.

The United States were described severally, and by name, and Massachusetts (Maine at that time not having been created a separate State) was of course the sole proprietor, as one party in severalty of her own Soil and Territory. It must evidently then have been the intention of the contracting parties to the Treaty, to conform the territorial limits of the States to those which existed before, or at the time the Treaty was made. With this view, doubtless, the geographical description was agreed upon as the best means of effecting it, and fixing the limits of their respective Possessions. The Treaty accordingly declares, that the point of commencement shall be "*from the north-west angle of Nova Scotia*" and then calls for "*that angle which is formed by a line drawn due north from the source of the St. Croix river to the highlands; along the said highlands which divide those rivers that empty themselves into the river Saint Lawrence, from those which fall into the Atlantic Ocean to the northwestern-most head of Connecticut river.*" The eastern part of the line contested, is then declared to be "*east by a line to be drawn along the middle of the river St. Croix, from its mouth in the Bay of Fundy to its source, and from its source directly north to the aforesaid highlands which divide the rivers which flow into the Atlantic Ocean from those which fall into the River St. Lawrence.*"

Now the Boundaries thus settled and fixed by the Treaty are to be regarded, or they are not. If the geographical lines which it describes are laid down, and the angle which it describes be found, the right of the United States to the whole Territory within its limits is indisputable, and is not denied by Great Britain; but she now contends, that the *geographical line* of the Treaty is impracticable, and cannot be found; that the description is imperfect; that there is no north-west angle of Nova Scotia, and no highlands conforming to the terms of the Treaty; therefore, that nothing can be done but to establish *another Boundary* by agreement of the two nations having no reference to that supposed to have been fixed in 1783. If then the provisions of the Treaty are to be disregarded, and the two Governments are to negotiate and adjust their Boundaries, whence does Her Majesty's Government derive the right of Jurisdiction and Sovereignty pending the negotiation. Until the question be settled either according to the lines of the Treaty or other wise, neither Government has the right of exclusively judging. Such a power in either Government, the Undersigned must again repeat, would be wholly incompatible with the just rights of the other.



## VIII.

Further attempt of  
Maine to exercise  
jurisdiction in the  
disputed territory.

Second Mission of  
Ebenezer Greely.

In favor of this claim of Jurisdiction, on the part of Great Britain, the doctrine asserted by Lord Aberdeen and Lord Palmerston amounts to this, that the whole of Massachusetts belonged to the British Crown prior to the Treaty of 1783, and was a part of her possessions: that as the Treaty called for certain geographical lines or boundaries, which have not been defined, but remain unadjusted, the Sovereignty and Jurisdiction over the whole Territory necessarily remains with Great Britain, until the portion designated by the Treaty stipulations shall be set apart from the British possessions and assigned to the United States, and that consequently some other act of setting apart the Territories of the United States from those of Great Britain, must be performed to divest her of Sovereignty and Jurisdiction.

Now if this doctrine be tested by its consequences, to what would it lead? If the right was yielded to Great Britain, is it not apparent that the claim asserted on the part of Her Majesty's Government, instead of being limited in its operation to the territory in dispute, might, upon the principles, assumed be made to reach to the entire State of Maine, or any other portion of the United States? If yielded to the United States, what part of the province of New Brunswick or Nova Scotia (upon which Massachusetts once had some claim) might not, on like principles, be annexed to the United States? Besides, would not the argument by which the claim of Her Majesty's Government is supported, prove that the United States are not now in possession of any portion of the territory acquired by the war of their Independence, if the Treaty of 1783 be as Lord Aberdeen and Lord Palmerston both suppose, the only act of Separation, in virtue of which they are in possession of their territory.

Whether the geographical lines called for by the Treaty will give the territory in dispute to Great Britain or to the United States, is the question at issue. Each claim it; and until it is finally adjusted, neither Government can or ought to attempt the exercise of Sovereignty and Jurisdiction over it. This is the ground which the Undersigned has felt it his duty to maintain in his correspondence with Lord Palmerston, and which he feels quite confident his Government will never consent to surrender.

In relation to the question of Title, he will take this occasion again to repeat, that it was not until after the year 1814, that the claim to the extent now asserted, was made on the part of Her Majesty's Government. This will appear by reference to the correspondence which preceded the Treaty of Ghent. By that correspondence it will be seen, that the British Commissioners expressly disclaimed any desire or intention on the part of Great Britain, to acquire any increase of Territory as such, under the stipulations of the Treaty of 1783. The first proposition submitted by them on behalf of their Government, was for a revision of the Boundary line between the British and American territories, with a view to prevent future uncertainty and dispute. This proposition was afterwards renewed, and instead of confining it to a revision of the lines, as a means of guarding against misunderstandings on the subject of Boundary, the proposition was varied, so as to secure a direct communication from Halifax and New Brunswick to Quebec, by a cession of that part of the district of Maine (then the state of Massachusetts) which intervened between New Brunswick and Quebec and prevented a direct communication.

The proposition was more than once repeated under different forms. It was however rejected by the American Commissioners upon the ground, that as Great Britain required a cession of territory forming a part of one of the States, it was not within the constitutional competency of the national Government to cede any portion of the territory of one of the States of the confederacy.

It was, moreover, admitted by the British Commissioners, that their proposal left it open to the American Commissioners to demand an equivalent for such cession in Territory or otherwise.

Now, by the submission of these propositions for a Cession of this Territory; is it not sufficiently obvious, that the British Commissioners believed that the Title was not in Great Britain, but the United States. Indeed, it can hardly be supposed that they would have proposed or consented to purchase it, if they had supposed that the British Title was what it is now asserted to be.

Nor can it be believed, that after those repeated propositions for a Cession of portions of the very Territory now claimed, and offers of an equivalent, and repeated rejections, it was the intention of the Commissioners to do more in the Treaty of Ghent, than provide simply for surveying and ascertaining the lines and guarding against possible difficulties.

It has, moreover, only been since the Treaty of 1814, and the failure to obtain the Territory by cession and purchase, that a claim has been set up, extending so much further south and west, than was necessary to secure a communication between the British provinces contiguous to the United States.

In relation to the question of Possession, upon which Her Majesty's Government now so much rely, the Undersigned will only add to his former statement on this subject, that it was expressly admitted by the British Commissioners pending the negotiation in 1814, that the greater part of the Territory in dispute was actually unoccupied.

These are the observations which the Undersigned has deemed it necessary to make in reply to his Lordship's last Note. He has not felt authorised to discuss the question of Title and eventual Sovereignty further than was necessary to meet the case of Mr. Greely, and show that the proceedings towards him were wholly unjustifiable. Having, as he believes, accomplished this, he begs to say that all further discussion on his part will now cease, unless under Instructions from his Government, or the course taken by Her Majesty's Government, it should become necessary to continue it. The Undersigned renews, &c.

Viscount Palmerston, G.C.B.

&c. &c. &c.

(Signed)

A. STEVENSON.

No. 12.—*H. S. Fox, Esq. to Viscount Palmerston.*—(Received March 25, 1838.)

VIII.

(Extract)

Washington, November 24, 1837.

Further attempt of  
Maine to exercise  
jurisdiction in the  
disputed territory.

Second Mission of  
Ebenezer Greely.

IN my Despatch of the 5th instant, I had the honor to acknowledge the receipt, on that day, by a special messenger from Boston, of your Lordship's despatch of the 31st of last August, with its several inclosures, relative to the arrest and imprisonment, by the authorities of New Brunswick, of Ebenezer Greely, citizen of the State of Maine, for attempting to assert the Sovereignty of that State over the Madawaska Settlement; and respecting the reported intention of the State Government of Maine, to justify and support the attempt in question.

Her Majesty's Government will have been informed by the Lieutenant Governor of New Brunswick, of the circumstances under which Greely was released from his first arrest, after a short, and very mild form of detention at Fredericton. I addressed at the time a letter to Sir John Harvey, recommending, under the then circumstances of the case, —that Greely should be set at liberty; which recommendation, I was gratified to find, coincided with the sentiments and opinions already entertained by Sir John Harvey.

One of the chief grounds, upon which Greely was then liberated, was this: that, as Sir John Harvey had in the first instance offered to release Greely, if assured that he would desist from his unwarrantable commission: and that, as the term of that commission, under which he was taking the census of the population in the Madawaska Settlement, had expired during his detention; so the proceeding complained of could not, in the course of things, be resumed. The resumption by Greely of his unlawful attempt, (upon the plea of completing an unfinished commission,) which led to his second arrest, and to his present detention, was a surprise to Sir John Harvey, and to me; and Greely himself appears to have therein exceeded the authority, such as it was, under which he professed to be acting.

I here beg particularly to observe to your Lordship, that my interference, as far as it went, in recommending the liberation of Greely, was unofficial, and confidential; and that it has been expressly so understood by the United States Government, and as in no way weakening the case of right, as to the legality of Greely's arrest. The prisoner's liberation was solicited, informally, as an act of grace and indulgence, calculated to allay the angry feelings excited amongst the inhabitants of Maine, but which was not to be understood as touching the question of right, in any degree whatever. I must also state, on the other hand, that the United States Government, while urging me to solicit the release of Greely, as a favor, and as an act of goodwill which would relieve the future negotiation of the Boundary Question from difficulty and embarrassment, nevertheless reserved to themselves the right, even although that favor should be granted, of remonstrating against the act of the New Brunswick Authorities in ordering the arrest; which act the United States Government did then, and do still, profess to consider illegal. I did not fail duly to explain this state of the case to Sir John Harvey.

When I learned, that after a short interval, Greely had resumed his unlawful acts in the Madawaska Settlement, and had consequently been again arrested; and that threats were publicly used, that the authorities of Maine would now despatch another Agent upon the same commission, and would support that Agent with an armed escort,—a course which must unavoidably have led to immediate hostile collision with Her Majesty's forces, (and with all these things I was carefully and promptly made acquainted by Sir John Harvey.) I lost no time in invoking the interposition of the United States Government, to prevent the State of Maine from an attempt so wholly unjustifiable, and which might induce a train of lamentable and disastrous consequences; and I am happy to find, that in so doing I anticipated in part the instructions, which I have subsequently had the honor to receive from your Lordship. I had frequent and anxious conversations with Mr. Forsyth upon the subject. I found that he was altogether unwilling to admit the right of the authorities of New Brunswick, to arrest or proceed against Greely by law. Acquiescing, to a certain extent,—reluctantly and doubtingly,—in the claim of Great Britain to exercise jurisdiction within the disputed territory until the Boundary question shall be adjusted, and conceding this point only so far, as to recognize the British Jurisdiction as resting upon an "arrangement," and an "understanding," and not upon a right,—Mr. Forsyth yet contended, and still persists in contending, that the attempt of Greely did not constitute an invasion or encroachment upon that arrangement or understanding. It was not my immediate duty to enter into this part of the argument; as the case is about to be brought before a legal tribunal. But I continued earnestly to invoke the interference of the United States Government to stop the proceedings of Maine, upon the following ground; that, as the question of the legality of Greely's arrest and prosecution was already in the hands of the General Government, and the United States' Minister in London, charged officially to discuss the same with the Government of Her Majesty, no possible justification could be set up for the Authorities of Maine, if they should resort in the mean time to acts of violence; but that the whole blame of whatever disaster might result from the threatened collision, must rest with the Government and people of that state, who in the eyes of the whole world would be considered as the aggressors. I believe that this argument produced a favorable effect; and that Mr. Forsyth used such means as were in his power, without receding from the ground of right which he had taken up,—to deprecate any act of violence on the part of Maine: both by direct representations to the Executive Government of that State; and indirectly by verbal communication with the Administration Members from Maine in Congress, who were at that time in Washington, attending the Extraordinary Session.



## VIII.

Further attempt of  
Maine to exercise  
jurisdiction in the  
disputed territory.

Second Mission of  
Ebenezer Greely.

The alarm of collision has now fortunately passed away ; and I cannot distinctly pronounce, to what extent of aggression the Authorities of Maine did really intend to proceed ; or how far their ill intentions were made to yield, at the instance of the President's Government.

I must do Mr. Forsyth the justice to say, that it has throughout, appeared to be his sincere and anxious wish to avert all motive for collision.

Since the receipt of your Lordship's despatch of the 31st of August, I have held some further conversation with Mr. Forsyth. Although the danger of immediate collision has, I hope, passed away, and although I had already in part, anticipated your Lordship's Instructions, I have thought it best to read to Mr. Forsyth the principal contents of your Lordship's Despatch in order that no doubt might remain respecting the acknowledged duty, and the fixed purpose of Her Majesty's Government, to protect Her Majesty's subjects and Her Majesty's territories, from aggression of whatever sort. I also took occasion, upon the question of Jurisdiction over the disputed Territory, to refer Mr. Forsyth, according to your Lordship's directions, to the Earl of Aberdeen's despatch to Mr. Lawrence, of the 14th of August, 1828. It appears that this document, which is of a date previous to Mr. Forsyth's entrance into office, had not before come under his observation.

I have further the honor to inclose, in the present Despatch, a set of printed Documents relating to the Boundary Question, which were communicated by the President to the House of Representatives, at the close of the late extraordinary Session of Congress. These documents comprise a series of correspondence between the President's Government and the State Government of Maine, upon the subjects, severally, of the Boundary question in general,—of the arrest and imprisonment of Ebenezer Greely,—and of the projected railroad between the Cities of Quebec and St. Andrews. The correspondence between the department of state and this legation, upon the subject of the aforesaid railroad, is also printed in this set of Documents.\*

In concluding this despatch, I beg to state to your Lordship, that I have reason to be greatly obliged to Major General Sir John Harvey, for the full and satisfactory manner in which he has kept me acquainted with the proceedings in New Brunswick, and in Maine, from the period of the first arrest of Greely, down to the present time. These communications have materially assisted me in my intercourse with the United States' Government.

No. 13.—*James Stephen, Esq. to John Backhouse, Esq.*

(Extract.)

*Downing Street, May 10, 1838.*

I AM directed by Lord Glenelg to transmit to you an Extract of a Despatch from Sir John Harvey, reporting the grounds on which he had deemed it advisable to liberate Mr. Greely ; and I am to request that in laying this despatch before Viscount Palmerston, you will inform him, that Lord Glenelg proposes to convey to Sir John Harvey the approval by Her Majesty's Government of his conduct in setting Mr. Greely at liberty.

No. 14.—*Sir John Harvey to Lord Glenelg.*

(Extract.)

*Fredericton, New Brunswick, February 2, 1838.*

I FEEL it to be an act of justice, which I have the greatest pleasure in performing towards the people of the neighbouring State of Maine, to state, that not one single act of border inroad or encroachment, or indicating any wish to take advantage of the circumstances in which this and the neighbouring Province of Lower Canada were placed by the outbreak in the latter Province, has been committed, to my knowledge, by any citizen of the State of Maine, or by any other citizens of the United States upon the frontiers of that State.

I am gratefully sensible of this forbearance, and most willing to impute it to the best motives, viz. those by which one friendly Government and people should be actuated towards another ; and under these feelings I have taken upon myself to accede to a request privately proposed to me from the Governor and other influential Members of the Legislature of the State of Maine, by permitting the enlargement of Mr. Ebenezer Greely, leaving the question of his arrest and detention to be disposed of in discussion betwixt the two general Governments.

\* For these Inclosures see Papers No. XI.

## IX.

## Attempt of the Authorities of New Hampshire, to exercise Jurisdiction within the Disputed Territory, 1835.

No. 1.—*Sir C. R. Vaughan to the Duke of Wellington.*

IX.

(Extract.)

*Washington, April 20, 1835.*

I HAVE the honour to inclose a copy of a letter, which I have received from His Majesty's Governor-General of Canada, calling my attention, to the exercise of judicial authority, by magistrates of the State of New Hampshire, in territory, near one of the sources of the river Connecticut, to which the United States cannot have any title, until the final settlement of the boundary.

Attempt of Authorities of New Hampshire to exercise jurisdiction in the disputed territory.

It appears that the people of some settlements upon "Indian Stream," a branch of the Connecticut, not having been mindful that they were under the jurisdiction of Lower Canada, created for themselves a provisional Government. As many of the settlers were from the United States, New Hampshire has taken occasion to assert its jurisdiction, by sending a sheriff of an adjoining county, to arrest and carry to a prison, in New Hampshire, one of the settlers.

As the title of New Hampshire to any territory upon the "Indian Stream" cannot be admitted, in the present state of the boundary question, I have addressed a note, a copy of which is inclosed, to the Secretary of State of the United States, and his answer, a copy of which is also inclosed, is at present confined to a promise, to inquire immediately into the circumstances of the case.

Inclosure 1 in No. 1.

*Lord Aylmer to Sir C. R. Vaughan.*

Sir,

*Castle of St. Lewis, Quebec, April 6, 1835.*

I BEG leave to call your Excellency's attention to the accompanying documents, relating to a late instance of an exercise of judicial authority, on the part of the State of New Hampshire, over a portion of the country, near the sources of the Connecticut River, which, I apprehend, is still subject of discussion between His Majesty's Government, and the General Government of the United States of America.

The territory in question is situated upon, and near a small river, called the Indian Stream, which falls into the Connecticut River; and the inhabitants of it are chiefly settlers from the neighbouring states.

Pending the negotiation, which has been so long going forward between the two Governments, these people, finding themselves in a disputed territory, wherein no jurisdiction existed, created for themselves a provisional Government of their own, which they have continued to exercise, without interruption, until a late occasion, when, as it is asserted by them, the authorities of New Hampshire, under the pretext, that their territory forms part of that State, have entered it, and carried off an individual, named Enos Rowell, for the purpose of lodging him in prison, within the State of New Hampshire.

As this proceeding cannot be acquiesced in, without prejudice to the pretensions of Great Britain to the possession of the territory of the Indian Stream, as a portion of the province of Lower Canada, I now have the honor of soliciting the interference of your Excellency with the General Government of the United States, for the release of the individual, named Enos Rowell, and for the prevention of future acts of authority, on the part of the State of New Hampshire, within the disputed territory.

From the commencement of my administration, I have considered it a very essential part of my duty, as Governor-in-Chief of His Majesty's North American possessions, to cultivate the good-will of the neighbouring States of the American Union: being assured, that in so doing, I have been acting in accordance with the well-known friendly disposition of His Majesty's Government, towards the United States. I entertain, therefore, very sanguine hopes, that the General Government of the United States will feel disposed, to interpose its influence, with the State of New Hampshire, with the view of preventing any further interference with the inhabitants of the Indian Stream territory. Such interference, I apprehend, cannot, in any event, be productive of advantage to the State of New Hampshire, for it establishes no proof of right, on behalf of that State; and if the territory in dispute should be hereafter adjudged to it, possession will follow as a matter of course.

I have the honor, &amp;c.

*Sir Charles R. Vaughan,*  
&c. &c. &c.

(Signed)

AYLMER.



## Inclosure 2 in No. 1.

*Sir C. R. Vaughan to the Hon. John Forsyth.**Washington, April 18, 1835.*

## IX.

Attempt of Authorities of New Hampshire to exercise jurisdiction in the disputed territory.

THE Undersigned, &c., has the honour to submit to the consideration of the Secretary of State of the United States, a copy of a letter, and of its inclosures, which he has received from His Excellency the Governor-General of Canada, complaining of the arrest and carrying to prison, in New Hampshire, by the authorities of that State, of an individual, named Enos Rowell, having his residence in a settlement upon Indian Stream, one of the sources of the Connecticut River, and which territory is involved in the second branch of difference between the two countries, respecting the north-eastern boundary of the United States.

New Hampshire, it appears, has carried jurisdiction into this part of the territory in dispute, between the two countries, under the pretext, that the settlements upon Indian Stream, are within the limits of that State. Now, it is well known, that the British Government contend, that the north-westernmost head of the Connecticut River, ought to be established at the source of a stream which flows into a lake above Connecticut Lake, while the American Government contend for the source of Hall's River, or of the Indian Stream. The arbiter decided positively that point of the controversy, in favour of the British claim. It is, however, only necessary to refer the Secretary of State, to the map A., laid before the arbiter to shew, that the jurisdiction of New Hampshire has been exercised, by the arrest of Enos Rowell, in territory in dispute, ever since the Treaty of 1783, between Great Britain and the United States. It is irrelevant to the question, to inquire whence the settlers upon Indian Stream may have derived their title to the lands they occupy, and into the form of government, which they may have established amongst themselves, upon territory which has not yet been detached from the original jurisdiction of Canada. The Undersigned is convinced, that it is only necessary to shew, that Indian Stream is yet an unsettled part of the boundary, to insure that redress, on the present occasion, which the Undersigned has had the satisfaction to acknowledge on the part of the President, whenever there have been just grounds for his interference to prevent collision on the disputed frontier.

The Undersigned, &amp;c.

(Signed) CHAS. R. VAUGHAN.

The Hon. John Forsyth.  
&c. &c. &c.

## Inclosure 3 in No. 1.

*The Hon. John Forsyth to the Right Hon. Sir Charles R. Vaughan.*

Sir,

*Department of State, Washington, April 18, 1835.*

I HAVE the honor to acknowledge the receipt of your note of this morning, submitting the copy of a letter and its inclosures, just received from the Governor-General of Canada, who complains of the exercise of jurisdiction by the authorities of New Hampshire, in a part of the territory in controversy between the United States and Great Britain, and claiming the interference of the executive to prevent collisions.

An inquiry will be immediately instituted, and a further communication be made to you on the subject, as soon as all the circumstances of the case can be ascertained.

I have the honor, &amp;c.

(Signed) JOHN FORSYTH.

Sir Charles R. Vaughan,  
&c. &c. &c.

No 2.—*Sir Charles R. Vaughan to Viscount Palmerston.—(Received August 25.)*

My Lord,

*Washington, July 29, 1835.*

I HAVE the honor to inclose a copy of a note which I have received from the Secretary of State, containing the explanations given by the Governor of New Hampshire, of the undue exercise of jurisdiction on the part of that State, in disputed territory on the River Connecticut, of which His Majesty's Governor of Lower Canada complained, as stated in my dispatch of April 20.

The explanation amounts to an explicit declaration on the part of the Governor and Legislature of New Hampshire, that that State has long held quiet and peaceable possession of the territory in question; and that a resolution passed the Legislature on the 8th of June, after having taken under consideration my note to Mr. Forsyth of the 18th April last, to continue possession, and to maintain jurisdiction over it, until the boundary is settled. At the same time, the Secretary of State is required by the Governor to obtain the release of a person named Luther Parker, who was arrested for resisting the jurisdiction of the British authorities, by a magistrate of Lower Canada.

I have thought it my duty, in a note, a copy of which is inclosed, to point out to Mr. Forsyth that the territory upon Indian Stream, where this unfortunate collision of jurisdiction has taken place, is clearly within the limits of Lower Canada, until the settlement of the boundary shall end, in both parties agreeing to adopt the sources of the Connecticut River, for which the Americans contend in preference to the branch claimed by Great Britain, which the arbiter has decided to be the source intended in the Treaty; and, according to a note received from Mr. McLane, the United States were willing to adopt it, provided Great Britain would accede to the last proposal of the President, to send out a commission in search of the highlands of the Treaty. On these grounds I have protested against the assumption of possession and jurisdiction over that territory by the State of New Hampshire.

I have communicated in a letter, a copy of which is enclosed, the explanation which I have received from Mr. Forsyth, to the Governor of Lower Canada, and I have transmitted to His Excellency a copy of my note in answer.

I observe that there is a disposition to excite some popular feeling in the northern States about the boundary, by the articles which appear in the newspapers; and I have the honour to inclose one of these articles which has been in circulation. Your Lordship will have collected from my informal communication with the President, stated in my despatch No. 29, how much the settlement of the boundary is already embarrassed, by the necessity which the President is under of consulting the people of Maine, about any step which he may take for bringing the question to an adjustment; and now Massachusetts and Maine will be joined by New Hampshire, in support of all the exaggerated pretensions which their respective local interests can suggest.

Viscount Palmerston, G. C. B.  
&c. &c. &c.

I have the honor to be, &c.

(Signed)

CHAS. R. VAUGHAN.

IX.

Attempt of authorities of New Hampshire of exercise jurisdiction in the disputed territory.

Inclosure 1 in No. 2.

*The Hon. John Forsyth to Sir C. R. Vaughan.*

Sir,

*Department of State, Washington, July 22, 1835.*

I HAVE the honor to transmit a copy of a communication from his Excellency, the Governor of New Hampshire, dated the 13th instant, relative to the exercise of jurisdiction by that State, within what is commonly called the Indian Stream territory; being a portion of the territory in dispute between the United States and Great Britain. This communication has been made in answer to a representation contained in your note of the 18th of April last, as to the alleged arrest and imprisonment, by the authorities of that State, of a person named "Rowell," residing within that territory. By the copy of the Governor's message to the Legislature, on the 8th of June last, (a copy of which accompanies his letter) it appears that the territory referred to has been always considered as included within the limits of New Hampshire; and that the State has held actual and continual possession of it, from soon after the Treaty of 1783, to the present time. And, by an act of New Hampshire, passed at the last Session of the Legislature, (a copy of which is also inclosed) it was resolved, that the State should continue the possession, and maintain jurisdiction over the territory, until the question of boundaries between the United States and Great Britain, affecting the limits of the territory, shall be finally settled. It is hoped that these documents will be found to afford a satisfactory explanation of the transaction referred to in your note.

I have, at the same time, to ask your attention to a complaint contained in the Governor's letter,—that Luther Parker, a resident of the Indian Stream territory, while pursuing his lawful calling therein, was lately arrested, under a warrant from a Magistrate in Lower Canada, and lodged in the prison of the county of Sherbrook, in that province. You will see by his Excellency's letter, that this act is viewed as an encroachment upon the rights of the State of New Hampshire, and that the interposition of the United States is claimed for obtaining redress.

With a view to that object, I have to request that you will transmit the complaint to his Excellency, the Governor of Lower Canada, with such representations as will produce an inquiry into the matter; and, if the facts be found, as they have been represented by his Excellency the Governor of New Hampshire, an immediate release and restoration of the prisoner.

I avail myself, &c.

(Signed)

JOHN FORSYTH.

Sir C. R. Vaughan,  
&c. &c. &c.

Inclosure 2 in No. 2.

*Mr. William Badger to the Hon. John Forsyth.*

Dear Sir,

*State of New Hampshire, Executive Department, July 13, 1835.*

IN answer to your communication respecting the north-eastern boundary of the United States, I herewith transmit all the facts that have come to my knowledge, that have a bearing on the question of boundary between the United States and Great Britain, so far as relates to New Hampshire. These facts are embodied in a communication to the Legislature, at its late session, of which I have the honor to forward a copy, as also a copy of a resolution, which the Legislature passed at said session, and which has become a law.

Upon consideration of the facts relative to the Indian Stream territory, I presume your opinion will coincide with mine, that the State of New Hampshire has such a title, and has, for so lengthy a period, enjoyed quiet, peaceable, and continued possession, and extended her jurisdiction over said territory, in such a manner as fully to justify her in continuing it until a better title and claim is shown, and the question as to boundary finally settled between the two Governments, when New Hampshire will peaceably and quietly conform to that decision.

It has been represented to me, that the authorities of the British Government in the province of Lower Canada have so far interfered in this part of the State of New Hampshire, as that one of her Magistrates has issued his warrant, caused the body of one Luther Parker, a resident of said territory, and while pursuing his lawful calling therein, to be arrested, and agreeable to the command, in said warrant, to be transported to the province of Lower



IX.

Attempt of Authorities of New Hampshire to exercise jurisdiction in the disputed territory.

Canada, and by the order of said Magistrate, lodged in the prison of the county of Sherbrook. As this indignity cannot be acquiesced in, without derogating from the honor and dignity of the State, as well as causing great injury and inflicting extreme cruelty upon one of her citizens, I have now the honor to solicit your interference with the Government of said province, for the release of the individual so imprisoned, and his restoration to the State of New Hampshire, and have full confidence to believe, that the Government of the United States will consider the proceedings, as above stated, a flagrant violation of the rights of this State, and will demand a redress of the grievance.

*The Hohn. J. Forsyth.*  
&c. &c. &c.

I have the honor, &c.  
(Signed)

WILLIAM BADGER.

Inclosure 3 in No. 2.

*Message of the Governor of New Hampshire to the Legislature of that State.*

Gentlemen of the Senate and House of Representatives,

I HEREWITH transmit for your consideration and disposal, the accompanying papers, drawing in question the right of jurisdiction, the State claims and has exercised over that part of the State, recently called the Indian Stream Territory, and lying north of the forty-fifth degree of north latitude. These papers go to show, that a portion of the settlers on this tract claim the protection of the State by its laws being extended over the territory, while another and probably the largest portion deny the State to have any right, it not being included within its limits, and remonstrate against the State extending her laws and jurisdiction over it, and have actually applied to the Governor of Lower Canada for relief; and the Governor of Canada, through His Britanic Majesty's Envoy, &c. has claimed the interference of the General Government, so far as that the enforcement of our laws may be suspended until the question as to boundary shall be settled.

I believe it is well established, and I have not learned that the fact is attempted to be controverted, either by the British Government or the inhabitants on that territory, that the northern boundary of New Hampshire extends to the highlands which divides the waters that fall into the St. Lawrence from those that fall into the Atlantic Ocean, and extending westerly along the highlands to the north-westernmost head of the Connecticut River, thence down said river to the forty-fifth degree of north latitude; and it appears in the Secret Journals of the old Congress, vol. 2, p. 225, that congress, in considering the instructions to be given to the Minister to be appointed for negotiating a Treaty of Peace, among other things unanimously agreed to the following draft of instructions:—

Sir,—You will herewith receive a communication giving you full powers to negotiate a Treaty of Peace with Great Britain; in doing which you will conform to the following instructions:—

The third article of the instructions is, “The boundaries of these States are as follows, viz.: These States are bounded north by a line, to be drawn from the north-west angle of Nova Scotia along the highlands which divide those rivers which empty themselves into the St. Lawrence from those which fall into the Atlantic Ocean, to the north-westernmost head of the Connecticut River, thence down along the middle of that river to the forty-fifth degree of north latitude, &c.” And that in forming the Treaty of 1783 these instructions were implicitly obeyed. The words of the Treaty are, Art. 2. “And that all disputes which might arise in future on this subject of the boundaries of the United States may be prevented, it is hereby agreed and declared, that the following are and shall be their boundaries, viz. from the north-west angle of Nova Scotia, viz. that angle which is formed by a line drawn due north from the source of the St. Croix River to the highlands which divide those rivers, that empty themselves into the River St. Lawrence, from those which fall into the Atlantic Ocean, to the north-westernmost head of the Connecticut River, thence down the middle of that river, to the forty-fifth degree of north latitude, &c.” (vol. 1, United States Laws, p. 203.)

It is evident that the United States, while struggling for independence, strenuously insisted on the above-described boundary, and so instructed their Minister, in negotiating with the British Government the Treaty of Peace, and that the British Government did so acknowledge their right to the said boundary, by ratifying the Treaty, which seems to supersede the necessity of going back to the original grants, or letters patent to Mason and Georges, covering different tracts and under different names, as Mariana Laconia, New Hampshire, &c., or to the proclamation of the British King, describing the boundaries of the provinces, or to the commissions of the Provincial Governors of the Province of New Hampshire, wherein the boundaries were in some measure expressed.

After the conquest of Canada by the British in 1759, and upon the conclusion of the Treaty of Paris 1763, when the French surrendered the Canadas, the British King, in forming the new province of Quebec, described in his proclamation, the southern boundary, so far as it relates to this question, as crossing the Champlain on, and following the forty-fifth degree of north latitude, and so along the highlands which divide the waters that empty themselves into the River St. Lawrence from those which fall into the sea, (vol. 6, Annual Register, page 209.) evidently leaving all we claim, and considerable more, within the now United States.

By an extract from the copy of a letter, from the Secretary of State of the United States, to the Council of Indian Stream, dated September 23, 1834, you will find his opinion to be, that if this territory is found to be within the limits of the United States, it is within the limits of New Hampshire, for he thus writes to the Council, “I think it proper to

"inform you, that if you are within the limits of the United, as has been always maintained by this Government, it is because you are within the limits of New Hampshire."

## IX.

I have adverted to most of the facts that have come to my knowledge and that have an immediate bearing on the question of boundary, other than that claimed by possession, and the only question that can now be raised as to boundary is, which is the north-westernmost head of the Connecticut River; and I would now respectfully invite your attention to the claims, the State may have to extend her jurisdiction over this section of it, by the actual possession that was taken soon after the ratification of the definitive Treaty of Peace, and has constantly been continued up to this time. Also our obligations to those citizens of the State, settled on this territory and who claim our protection. And whether our possession has not been such as to justify the State in enforcing her laws and continuing her possession, until the General Government effect a decision as to its northern boundary, so far as relates to New Hampshire.

Attempt of Authorities of New Hampshire to exercise jurisdiction in the disputed territory.

To shew which branch has been invariably considered the north-westernmost head of the Connecticut River by this State, I would refer you to the several acts or resolves of the Legislature, the reports and doings of the committees, and some of the proceedings of the judicial courts.

The Legislature, the 7th February, 1789, voted that the Hon. John Sullivan, Ebenezer Smith, Nathan Hoit, Joseph Cram, and Jeremiah Eames, Esquires, be, and they are hereby appointed a Committee to ascertain the unlocated lands within this State, by running the line between this State and that part of the commonwealth of Massachusetts, formerly called the province of Maine, and the line between the northerly part of this State and the province of Lower Canada, and return a descriptive plan. January 6, 1790, the committee made the following report, among other things: that after running the line between this State and Maine, "we continued on our line measured and spotted to the highlands which divide the waters that fall into the River St. Lawrence and the waters that fall into the Atlantic Ocean, where we marked a large birch tree that stands on said highlands, thus, N. E. 54. M. New Hampshire, 1789, for the north-east corner of New Hampshire, and piled stones round said tree, then from said north-east corner, where we marked the birch, we measured and spotted south-westerly and westerly, along on said highlands, about six miles, then we run about west, measured and marked a tree at the end of every mile from said birch, from one to seventeen miles and two hundred rods, to the head of the north-west branch of Connecticut River; and marked a fir-tree N. H. N. W. 1789, for the north-west corner of New Hampshire, then down said river, or north-west branch, to the main river, about half a mile below latitude forty-five degrees north."

On the trial of an information by the State, *v.* highlands, A. D. 1823, Coos *y.*, it appeared in evidence from Jeremiah Eames, one of the above committee and surveyor, that the north-west branch, examined and described by them in running the line as aforesaid, was Hall's Stream. Vol. 2. N. H. Hist. S.

For further continuance of possession, I would refer you to the report of a committee of the Legislature, November Session, 1820, Journals of the House, page 60, and the accompanying resolves, authorizing and requiring the Attorney-General to institute due proceedings in law against such of said persons as he shall deem proper, in the name and behalf of the State, and the same to prosecute to find judgment, to the end that the said persons, in case it shall be found that they have unlawfully entered and intruded upon lands may be removed therefrom, which report was accepted.

At the 341st page of the Appendix to the Journal of the House of Representatives, November Session, 1824, the committee, to whom was referred certain duties as to the territory now in question, reported among other things, that the Attorney-General, in compliance with the foregoing resolution, did institute legal proceedings against certain of the settlers in the superior court, in and for the county of Coos, which the records of that court no doubt shew, but which I have had no opportunity to examine.

I would further refer you to the doings of a committee of the Legislature, as by their report, December 6, 1824, made by their Chairman, Mr. Wilson, of Lancaster. They report "that in exploring this tract, the committee began at the mouth of Hall's Stream, so called, thence up said stream on the main easterly branch of the highlands, dividing the waters of the Connecticut and St. François rivers, thence following said highlands to the westerly line of the State of Maine, thence southerly on said line, to the tract of land granted by this State, to Gilmanton and Atkinson Academies, thence westerly on the line of said grant, to the easterly line of the first grant to Dartmouth College, thence on the east and northerly lines of said grant to Dartmouth College, to Connecticut river, thence down said river to the first-mentioned bound." This Committee were directed by the Legislature to estimate the quantity of land contained in this tract and its value, and to ascertain the number of inhabitants, all of which they say, in their report, they did do.

It is important, and much to be desired, that the Legislature should go into a full investigation of this subject, and that it should decide the question, whether the State has or has not such a title, and taken and continued such a possession and so extended her jurisdiction over this territory, as to justify a continuance of it, as that the officers of the Government may have no hesitation in knowing their duty, whether peaceably to withdraw and leave the territory unmolested, until the controversy as to boundary is settled by the two Governments, or boldly and fearlessly discharge their duties in good faith to the State and all its citizens, by a prompt and efficient administration of her laws.

(Signed)

WILLIAM BADGER.



(C.)

*Executive Department, June 8, 1835.*

## IX.

Attempt of authorities of New Hampshire to exercise jurisdiction in the disputed territory.

RESOLVED, by the Senate and House of Representatives, in general court convened, that the State of New Hampshire should continue the possession of the Indian Stream Territory, and maintain the jurisdiction of the State over the same, until the question of boundaries now in dispute between the United States and Great Britain, affecting the limits of said territory, shall be finally settled. And his Excellency the Governor be requested to render all necessary aid to the executive officers of the county of Coos, in causing the laws of said State to be duly executed within the limits of said territory.

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Inclosure 4 in No. 2.

*Sir C. R. Vaughan to the Hon. John Forsyth.*

*Washington, July 26, 1835.*

THE Undersigned, &c. &c. regrets that the note which he has had the honour to receive from the Secretary of State of the United States, in answer to the representations made by His Majesty's Governor of Lower Canada, of the exercise of jurisdiction in the disputed territory, situated upon Indian Stream, by the authorities of the State of New Hampshire, does not afford that satisfactory explanation of the transaction referred to, which the Secretary of State expresses a hope would be afforded, by the documents which were enclosed in his note.

Those documents consist of a letter from the Governor of New Hampshire, containing a message to the Legislature of that State, followed by a resolution passed by the latter, by which it appears that on the 8th June, and subsequently to having considered the note of the Undersigned, dated the 18th April, the Legislature resolved, in conformity with the message of the Governor, that the State of New Hampshire should continue the possession of the Indian Stream Territory, and maintain the jurisdiction of the State over the same, until the question of boundaries, now in dispute between Great Britain and the United States, affecting the limits of the said territory, shall be finally settled. The Governor was requested to render all necessary aid to the executive officers, in causing the laws of the State to be duly executed, within the limits of the said territory.

The Governor of New Hampshire, in a letter to the Secretary of State, declares that quiet, peaceable, and continued possession has, for a long period, been enjoyed by that State, which justifies continuing possession, until a better title is shown, and the question as to boundary is settled.

The position of the territory upon Indian Stream was pointed out by the Undersigned, in his note of the 18th April. It lies between a stream to the east of it, claimed by Great Britain, and a stream to the west of it, claimed by the United States, as the north-westernmost head of the Connecticut River, to which the line of boundary is to be traced, according to the Treaty of 1783. The conflicting claim about the sources of the Connecticut forms a distinct point of controversy in the boundary question. The title of New Hampshire to the territory upon Indian Stream, therefore, depends upon the parties finally agreeing, to adopt the western or Hall's Stream, for which the United States contend.

An impartial judge, the King of the Netherlands, before whom the question was solemnly argued, decided in favour of the source of the Connecticut River, contended for by Great Britain, and according to the note of Mr. McLane, dated 11th March, 1834, the Government of the United States were willing to adopt it, provided Great Britain should accede to the proposal of the President, to send out a new commission in search of the highlands of the Treaty of 1783.

The Undersigned is at a loss to know, under what title, New Hampshire can claim, as the Governor states, long, quiet, and peaceable possession of the territory in question, which, owing to the difficulty of ascertaining the position of the natural objects by which the line of boundary is to be traced, according to the Treaty of 1783, has never yet been detached from the original possession of Great Britain.

It appears from the letter of the Governor of Lower Canada, a copy of which the Undersigned had the honor to submit to the Secretary of State, in his note of the 18th April, that the territory in question has been chiefly settled by people from the neighbouring States, and as the Government of Canada had not been called upon to assert jurisdiction, until the person, named "Rowell," was arrested and carried off prisoner by the authorities of New Hampshire, the settlers had established amongst themselves, a local and provisional Government,—a state of things which seems to prove that they did not know to which of the neighbouring Governments they belonged.

Under this view of the question, it appears to the Undersigned that it is his duty to protest against the possession of the territory on Indian Stream, and the exercise of jurisdiction over it by New Hampshire, pending the settlement of the boundary; and he appeals with confidence to the President of the United States, to interpose his good offices, to prevent the misunderstanding which prevails in New Hampshire, from embarrassing the final settlement of the boundary.

The Undersigned has the honour to assure Mr. Forsyth, that he will immediately transmit to His Majesty's Governor of Lower Canada the representation of the Governor of New Hampshire, in behalf of Luther Parker, who has been arrested by a Canadian

magistrate. He regrets that he does not find in the note of the Secretary of State any mention of redress to be afforded by the Government of New Hampshire, to the person named Rowell, who was arrested on the Indian Stream, and carried off to prison by the authorities of New Hampshire, which was the subject of his note of the 18th April.

*The Hon. John Forsyth*  
&c. &c. &c.

The Undersigned, &c.

(Signed)

CHAS. R. VAUGHAN.

IX.

Attempt of authorities of New Hampshire to exercise jurisdiction in the disputed territory.

Inclosure 5 in No. 2.

*Sir C. R. Vaughan to Lord Aylmer.*

My Lord,

*Washington, July 29, 1835.*

I HAVE the honour to enclose a copy of the answer which I have received from the American Secretary of State, to the representation which I made of undue exercise of jurisdiction, by the State of New Hampshire, in the disputed territory upon Indian Stream.

My note upon this subject having been referred to the Governor of New Hampshire, he laid it before the Legislature of the State, accompanied by a message, in which he seeks to justify the exercise of jurisdiction upon the evidence of persons employed to run the line of boundary of New Hampshire, according, of course, to the interpretation which the Legislature then put upon the Treaty of 1783, without any reference to that line having been disputed ever since by Great Britain. The Governor having invited the Legislature to investigate the question, the latter have unfortunately passed a resolution to keep possession of the territory, and to maintain jurisdiction over it. I have the honour to enclose a copy of a note, which I have addressed to Mr. Forsyth, pointing out the position of Indian Stream, shewing that it has not yet been detached from Lower Canada, and protesting against the resolve of the Legislature of New Hampshire.

The American Secretary of State, your Excellency will find on referring to his note to me, instead of noticing the redress due for the arrest by a Magistrate of New Hampshire, of the person named "Rowell," has requested me to forward a request to your Excellency, for the release of "Luther Parker," arrested by a Canadian Magistrate. Your Excellency best knows what claims this individual may have to any indulgence, and I have no doubt but that in the collisions of jurisdiction, you are inclined to mitigate the sufferings of individuals, as much as is consistent with the due assertion of British authority. The impatience of the States of Maine, Massachusetts, and New Hampshire, to obtain the construction they put upon the terms of the Treaty, threatens to be productive of frequent cause of complaint on both sides, upon that frontier.

I have the honour, &c.,

(Signed)

CHAS. R. VAUGHAN.

*Lord Aylmer,*

&c. &c. &c.

Inclosure 6. in No. 2.

*Article extracted from a New Hampshire Newspaper.*

#### OUR NORTHERN BOUNDARY.

IT would seem from what is below, that our good friends the British are so satisfied of the friendly disposition of our present administration, and so encouraged by the impunity with which they have been permitted to take possession of one third of the State of Maine, that they are disposed to make the same experiment in relation to New Hampshire. The case in Maine holds out to New Hampshire a poor prospect of a settlement of the question. General Jackson has been near seven years in office, and the Maine boundary question is just where it was. The settlement of the question has been sacrificed to the *more important* object of making Van Buren President.

#### A SPECK OF WAR.

Further dispute on the subject of the eastern boundary, it seems, is about being added to those which have already occasioned so much unprofitable excitement. Indian Stream, embracing a portion of territory heretofore considered within the jurisdiction of New Hampshire, we learn from the Concord Statesman, is now claimed as being within the jurisdiction of the British authorities, and measures have actually been taken for carrying the claim into practical operation, placing the territory of New Hampshire, in a situation similar to that of Maine at Madawaska, about which so much has been said. The inhabitants have heretofore been numbered with the population of the State, and the resident authorities have always acted under the authority of New Hampshire. The following letter which we copy from the Statesman will shew the nature of the dispute, as well as the spirit in which the controversy is maintained. Major Downing must take the matter in hand, and the sooner he gets upon the ground the better will it be for all parties. The letter is dated, Stewartstown, Saturday, July 4th.

"On Sunday last, Mr. Luther Parker, of Indian Stream, by assumed authority from the Province of Lower Canada, was arrested on a charge of having furnished a neighbor of his, Mr. Sampson Thurston, with weapons of defence, with an intent to resist the laws of



## IX.

Attempt of authorities of New Hampshire to exercise jurisdiction in the disputed territory.

Indian Stream, since which for that offence he has been lodged in Sherbrooke gaol to await his trial in October next.

For the further information of the public, it may not be improper to add, that the inhabitants of Indian Stream, with the exception of Mr. Parker, and a few others, have zealously contended for laws of their own make,—and by which they attempted to arrest the body of Mr. Thurston, who with no less zeal contended that that place was within the jurisdiction of the State of New Hampshire,—but he being well armed defeated their design. After this repulse, application was made to a Magistrate of the Province of Lower Canada, for assistance, who issued a warrant against Mr. Parker, as before stated, and one against Mr. Thurston, but he has not been arrested, in consequence of his leaving the place. The person who acted as Sheriff in the affair, and also those who assisted him reside at Indian Stream, and are in open rebellion to the laws of New Hampshire. How long shall affairs thus remain ?”—*United States Gazette*.

No. 3.—*Sir C. R. Vaughan to Viscount Palmerston.*—(Received October 15.)

My Lord,

*Washington, September 20, 1835.*

IN my despatch, of July 29, I had the honour to state, that I had referred to His Majesty's Governor-General of Canada, a complaint received from the Secretary of State, of the United States, of the arrest of a person, in the settlement upon Indian Stream, by the Magistrates, acting under the authority of the Government of Lower Canada.

I have received from Lord Gosford an explanation of that exercise of jurisdiction by Canadian Magistrates, and I have transmitted copies of the papers received, to the Secretary of State, in a note, a copy of which is inclosed, in which I have protested against the disposition, which has been manifested by the State of New Hampshire on the one hand, and the settlers on Indian Stream on the other, to decide the question of territorial jurisdiction, which depends entirely upon the settlement of the boundary question now in progress between the two Governments.

I have the honour to inclose a copy of Mr. Forsyth's note, acknowledging the receipt of the papers received from Lord Gosford, and informing me that they will be referred to the Governor of New Hampshire.

I have the honour to be, &c.

*Viscount Palmerston, G.C.B.*  
&c. &c. &c.

(Signed) CHAS. R. VAUGHAN.

Inclosure 1 in No. 3.

*Sir Charles R. Vaughan to the Hon. John Forsyth.*

*Washington, September 15, 1835.*

THE Undersigned, &c., has the honour to transmit to the Secretary of State of the United States, a copy of a letter which he has received from Lord Gosford, who has recently assumed the Government of the Province of Lower Canada, explaining the arrest of Luther Parker, in the Indian Stream territory, by the Canadian authorities, the inquiries of the Undersigned upon that subject, having been called for, by a note received from the Secretary of State, in the month of July last.

It appears by the inclosed letter from the Governor-General of Canada, that Luther Parker is now at liberty, having given bail to appear at the sessions for the county of Sherbrooke, for a violation of the law, in having aided and abetted Sampson Thurton, in a breach of the peace, against Jonathan C. L. Knight, a resident of the same settlement.

The Governor-General regrets, that he cannot, consistently, with what he conceives to be his duty, prevent the law from taking its course, as it regards Luther Parker, but the general question of disputed territory will be immediately referred to His Majesty's Government.

The Undersigned cannot call the attention of the Secretary of State to the inclosures No. 4 and 5 in Lord Gosford's letter, without protesting against the disposition, which has been manifested by the State of New Hampshire on the one hand, and the settlers of Indian Stream on the other, to decide the question of territorial jurisdiction, according to their respective wishes and inclinations, which entirely depends upon the arrangement respecting boundary, now in progress between the two Governments.

The Undersigned, &c.

*The Hon. John Forsyth.*  
&c. &c. &c.

(Signed) CHAS. R. VAUGHAN.

Inclosure 2 in No. 3.

*Lord Gosford to Sir C. R. Vaughan.*

Sir,

*Castle of St. Lewis, Quebec, September 5, 1835*

HAVING but recently assumed the Government of this Province, the various arrangements consequent on a change of Governors, have prevented my sooner acknowledging the

receipt of your despatch, of the 29th July last, with its four inclosures, on the subject of the Indian Stream territory, and the arrest of Luther Parker by the Canadian authorities. I have now the honor of transmitting for your information, a copy of a letter from my predecessor to Mr. Justice Fletcher, with his answer thereto, inclosing a copy of the warrant, under which Luther Parker was arrested, together with a copy of another letter from Mr. Fletcher, inclosing a communication from some of the inhabitants of the Indian Stream settlement. From Mr. Fletcher's first letter, and the warrant, you will perceive that Luther Parker was, on the 2d July last, committed to Sherbrooke jail in this province, on the complaint of Jonathan C. L. Knight, a resident in the settlement, for a breach of the peace, in aiding and abetting one Sampson Thurton, in acts of violence against Knight; and that he is now at liberty, having given bail to appear at the ensuing October sessions for the county of Sherbrooke, to answer for his alleged violation of the law.

Although my earnest endeavours, while I continue to administer the affairs of this province, shall always be directed to promoting the good understanding, which so happily exists between the Governments of Great Britain and the United States, yet pending the settlement of the boundary question, I do not feel myself authorized in taking any steps which may be considered as compromising the right claimed by Great Britain to exercise jurisdiction over the territory now in dispute. I regret, therefore, that I cannot consistently with what I conceive to be my duty, interfere to prevent the law taking its course, as it regards Luther Parker; but I shall lose no time in laying the whole of this transaction before His Majesty's Government, where alone the general question of disputed territory can be finally determined.

I regret that your representations on behalf of Eneas Rowell have not led to his release.

Sir C. R. Vaughan,  
&c. &c. &c.

I have the honour, &c.  
(Signed)

GOSFORD.

Inclosure 3 in No. 3.

*Lieut.-Colonel Craig to Mr. Justice Fletcher.*

Sir,

*Castle of St. Lewes, Quebec, August 8, 1835.*

I AM commanded by His Excellency the Governor-in-Chief, to convey to you his desire to be informed whether there is now, or has been at any time within the last year, a person confined in the common gaol at Sherbrooke of the name of Luther Parker, and if so that you will please to state where, and the authority under which, he was apprehended, together with any other circumstances connected with the case of Luther Parker, and the cause of his apprehension, which you may have it in your power to communicate.

Mr. Justice Fletcher,  
&c. &c. &c.

I have the honor, &c.,  
(Signed) H. CRAIG, Civil Secretary.

Inclosure 4 in No. 3.

*Mr. Justice Fletcher to Lieut.-Colonel Craig.*

Sir,

*Sherbrooke, August 12, 1835.*

I HAVE to acknowledge the receipt of your letter of the 8th instant, requesting on the part of his Excellency the Governor-in-Chief, to be informed whether there is now, or has been at any time within the last year, a person confined in the common gaol at Sherbrooke, of the name of Luther Parker, and if so, that I would state the place where, and the authority under which, he was apprehended, together with any other circumstances connected with the case which I may have it in my power to communicate.

I have accordingly sent for the gaoler, from whose statement it appears that a person of the name of Luther Parker was received into the common gaol of this district, on the 2d of July last, under a warrant of commitment, which he produced, and of which I enclose you a copy; and that the prisoner was admitted to bail, on the 6th by Dr. Moses Nichols, a magistrate residing in the neighbourhood. I was myself absent from Sherbrooke, during the whole of that period, on my half-yearly circuit, and consequently heard nothing of the matter; nor is it, indeed, by any means probable that I should have heard of it, if I had been at home at the time, unless the prisoner had felt it necessary to apply for a writ of *habeas corpus* which would of course have been granted to him.

Mr. Rea, the Magistrate by whom the commitment appears to have been signed, resides in the township of Hereford, between thirty and forty miles from this place, and I have consequently had no opportunity of applying to him for any information with regard to the circumstances of the case. Dr. Nichols has, however, called on me to-day, in consequence of a note which I sent to him this morning, requesting him to do so, but I find that he can give me no information on the subject of your enquiry. He states that he admitted the defendant to bail, in compliance with the desire expressed in a note from Mr. Rea, the committing Magistrate, addressed to himself, and Captain Colelough, and Mr. Rea, the three magistrates residing nearest to this place, requesting that some one of them would do so on the defendant's producing responsible sureties—which was probably written for the purpose of saving further trouble and expense to the prisoner. It appears that Lewis Lomes, Esq., a gentleman, who is, as Dr. Nichols under-



1A.

Attempt of authorities of New Hampshire to exercise jurisdiction in the disputed territory.

stands, well known in the northern part of the State of New Hampshire, became one of the defendant's bail, and that Levi Nichols, an inkeeper in this neighbourhood, (and who is, as I think, a son of Dr. Nichols,) was the other, and the recognizances will, as I suppose, be duly filed with the clerk of the peace previous to the next session.

Lieut.-Colonel Craig,  
&c. &c. &c.

I have the honour, &c.,

(Signed)

J. FLETCHER.

Inclosure 5 in No. 3.

*Province of Lower Canada, County of Sherbrooke, District of St. Francis,*

TO WIT,

To Charles Whitcher, Esq., Sheriff of the district of St. Francis, his Deputy, or the Keeper of the Goal at Sherbrook, for the time being, greeting.—

YOU are hereby required to receive at the hands of Reuben Sawyer, of the township of Drayton, known as Indian Stream, authorized by me to act as a peace officer in this case, by virtue of a warrant from under my hand and seal, (bearing date the 26th day of June, 1835,) the person of Luther Parker, trader, of said Drayton, in this district and county, and him safely keep, so that he may be forthcoming to answer to our Lord the King (at the next Court of Sessions of the Peace, to be holden at Sherbrooke, in the month of October next) on a complaint of Jonathan C. L. Knight, Farmer, of Drayton aforesaid, for a breach of the peace in aiding and abetting one Sampson Thurton in acts of violence against said Knight, thereby violating the laws of this Province, and furthermore for resistance of the laws of this Province, made by said Luther Parker, while under keepers.

Given under my hand and seal, at Hereford, this first day of July, A. D. eighteen hundred and thirty-five, and in the fifth year of the reign of our Sovereign Lord King William the Fourth.

(Signed)

ALEXANDER REA, Justice of the Peace.

Inclosure 6 in No. 3.

*Mr. Justice Fletcher to Lieutenant-Colonel Craig.*

Sir,

*Sherbrooke, August 19, 1835.*

HAVING yesterday received the enclosed letter, I have thought it right to transmit it to you for communication to his Excellency, the Governor-in-Chief. I am not aware that I have even the slightest acquaintance with any of the persons by whom it appears to have been signed.

I have, &c.

(Signed)

J. FLETCHER.

Lieut.-Col. Craig.  
&c. &c. &c.

Inclosure 7 in No. 3.

*To the Honorable Justice Fletcher.*

Sir,

*Indian Stream, August 5, 1835.*

WE, the inhabitants of Indian Stream, beg the liberty to inform your honor of our present situation. The Governor of New Hampshire having of late ordered the High Sheriff of the county of Coos, in said State, to proceed to serve precepts in this place, and to order what military force he thought proper, to aid him in the execution of his office, consequently the said Sheriff having ordered out a heavy force, we thought proper to submit to a much superior force, without the shedding of blood, and after repeatedly soliciting the aid of your Government, and receiving no encouragement of any assistance, we have acknowledged the jurisdiction of the State of New Hampshire.

Will your honour have the goodness to inform your Government of those circumstances relative to our territory.

(Signed)

RICHARD BLANCHARD.

JOHN HAINES.

WM. WHITE.

WM. FESSENDEN.

WM. PATTEN.

*Hon. Justice Fletcher.*

Inclosure 8 in No. 3.

*The Hon. John Forsyth to Sir. C. R. Vaughan.*

Sir,

*Department of State, Washington, September 19, 1835.*

I HAVE the honour to acknowledge the receipt of your note of the 15th inst., transmitting a copy of a letter, addressed to you by Lord Gosford, the present Governor of the Province of Lower Canada, explanatory of the arrest of Luther Parker, in the Indian Stream Territory, by the Canadian authorities, in answer to certain inquiries upon the subject, to which your attention had been asked by a communication from this Department in the month of July last, and to inform you that transcripts of your note and its enclosures will, without delay, be forwarded to his Excellency the Governor of New Hampshire.

I avail myself, &c.

(Signed)

JOHN FORSYTH

Sir C. R. Vaughan.  
&c. &c. &c.

## X.

Aggression and Violation of Territory of Lower Canada by Citizens  
of New Hampshire.—1836.

No. 1.—*Charles Bankhead, Esq., to Viscount Palmerston.*—(Received March 17.)

My Lord,

*Washington, February 21, 1836.*

X.

ON the 17th instant I received a letter from Lord Gosford, His Majesty's Governor-in-Chief of Canada, inclosing a variety of documents in support of a complaint of an assault and gross violation of territory which have been committed by several armed citizens from the State of New Hampshire.

Aggression and  
violation of terri-  
tory by citizens of  
New Hampshire.

The assault was made upon Mr. Rea, a Magistrate of the district of St. Francis, and upon a peace-officer, named Young, who accompanied him. The latter was severely wounded, and the former forcibly carried over the frontier, and placed in temporary custody.

This act of violence was occasioned in consequence of the arrest, under a warrant signed by Mr. Rea, of a man named Blanchard, who lives in the Indian Stream Settlement, which forms a part of the territory at present in dispute between Great Britain and the United States. Blanchard was apprehended for having before arrested another inhabitant of the same settlement, under the authority of the Sheriff of Coos, in New Hampshire. While the constables were bringing him to Mr. Rea's, the Magistrate's, house, he was rescued by several armed citizens of New Hampshire. Mr. Rea remonstrated with these persons against this unwarrantable and illegal act, when he was attacked and captured on his endeavouring to make his escape, and his officer fired at and wounded.

What gives to this proceeding so grave a character is, that the rescue of the prisoner and the attack and abduction of the Magistrate took place, not in the disputed territory, but within the acknowledged limits of the Province of Lower Canada. It all arises from the attempts made by the State of New Hampshire, notwithstanding the repeated remonstrances of His Majesty's Government, to exercise jurisdiction in the disputed territory.

That State has lately taken military occupation of the territory in question; and the officer commanding the detachment of militia was one of the persons engaged in the violation of the acknowledged territory of His Majesty, and the attack upon the British Magistrate.

I lost no time in communicating these facts to the Secretary of State in a note, a copy of which I have the honour to inclose, and I therein submitted, for the serious consideration of the President, the necessity of a full and prompt redress for this gross violation of territory, and the unprovoked attack upon two of His Majesty's subjects. I also urged the expediency of the Federal Government using its influence and power to prevent a repetition of occurrences which must tend to disturb the present happy relations which subsist between Great Britain and the United States.

As soon as I receive Mr. Forsyth's answer, I shall communicate its contents to Lord Gosford.

*Viscount Palmerston, G.C.B.*  
&c. &c. &c.

I have the honor to be, &c.,  
(Signed) CHARLES BANKHEAD.

Inclosure 1 in No. 1.

*Charles Bankhead, Esq. to the Hon. John Forsyth.*

*Washington, February 18, 1836.*

THE Undersigned, &c., has the honor to submit to the Secretary of State of the United States the copy of a letter which he has received from the Earl of Gosford.



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 Aggression and  
 violation of terri-  
 tory by citizens of  
 New Hampshire.

inclosing a variety of documents relative to a complaint of no ordinary character, which His Excellency has preferred against certain citizens of the United States, residing in the State of New Hampshire.

The letter of Lord Gosford indeed, embraces two subjects of complaint, which the Undersigned thinks it right immediately to communicate to Mr. Forsyth, in the full persuasion, which he entertains in common with the Governor-General, that the American Government will afford full redress, and adopt such measures thereupon, as shall prevent a recurrence of similar irregularities for the future.

It appears that in October last, Mr. Rea, a Magistrate for the district of St. Francis, issued his warrant for the apprehension of two citizens of the United States, named Smith and Harvey, and one individual (J. C. Blanchard) belonging to the Indian Stream territory, at present in dispute between the United States and Great Britain. This proceeding took place in consequence of the arrest of another inhabitant, called Tyler, of the same settlement, by these three persons, under the authority of the Sheriff of Coos, in New Hampshire.

Blanchard only, however, was arrested, and while the constables were bringing him to Mr. Rea's (the Magistrate's) house, he was forcibly rescued in the highway, by a body of armed men, citizens of New Hampshire.

Lord Gosford's letter contains the particulars of a gross outrage, which was committed on the persons of Mr. Rea and of a peace-officer, named Young, by two armed citizens of the United States, named Hurlburt and Aldrich. They were fired at, and Young was wounded, both by the fire-arms and the cut of a sabre; and upon Mr. Rea's endeavouring to make his escape from these persons, whose number was now increased by the arrival of several other armed citizens, he was overtaken and carried prisoner into Canaan, in Vermont, where he was detained some hours in custody.

It appears that one of the party concerned in this attack and abduction of Mr. Rea is a captain in the New Hampshire militia, named Mooney; and that the scene of the rescue of Blanchard, and of the outrage on Mr. Rea, is not in the disputed territory, but is clearly within the limits of the Province of Lower Canada. This violation of territory on the part of certain armed citizens of New Hampshire, under the command of, or countenanced by, an officer holding a commission in their militia, for the avowed purpose of attacking and forcibly carrying out of the Province of Lower Canada several of His Majesty's subjects, is of so gross a nature, that the Undersigned feels himself called upon to bring the case under the serious consideration of the President of the United States. It has grown out of the repeated attempts of the State of New Hampshire, notwithstanding the renewed remonstrances of His Majesty's Government, to exercise jurisdiction, and to enforce its laws within a territory, the sovereignty of which has never been yielded by Great Britain, its original possessor. The Undersigned thinks it his duty likewise to represent to the Secretary of State the extreme embarrassment which must arise to the two Governments from the military occupation by the State of New Hampshire of the territory in question. It is a proceeding, which if persevered in, will oblige His Majesty's Governor of Lower Canada to take measures to repel; but which his Excellency would be very loath to have recourse to, if it could possibly be avoided.

The Undersigned begs leave to place this statement of facts before the Secretary of State, under the confident hope that the President will obtain for the gross violation of territory which has been committed by the officers of the State of New Hampshire a full and prompt redress; and that he will use the influence and power of the Federal Government, to prevent a repetition of occurrences which tend to disturb the harmony and good understanding so happily subsisting between Great Britain and the United States, which it is the constant aim of His Majesty's Government to foster and increase, and which they doubt not is fully participated by that of the United States.

*The Hon. John Forsyth,*  
 &c. &c. &c.

The Undersigned, &c.  
 (Signed) CHARLES BANKHEAD.

Inclosure 2 in No. 1.

*The Earl of Gosford to Charles Bankhead, Esq.*

Sir,

*Caste of St. Lewis, Quebec, February 6, 1836.*

IT has become my duty to communicate to you the details of an outrage of a very grave character, which has recently been committed within the undoubted limits of this province, by an armed body, consisting principally of citizens of New Hampshire, on two of His Majesty's subjects, the one a Justice of the Peace, and the other a Peace-officer, while in the execution of their official duties; and I have to request that you will take such steps, as you may judge advisable, to obtain immediate redress from the justice of the Central Government of the United States, for this infraction of the law of nations, accompanied by acts endangering the lives and violating the liberties of His Majesty's Canadian subjects.

Before entering into the details of the case, it is proper to inform you that they were collected under a commission, which I appointed for the purpose, consisting of three gentlemen who were expressly made Justices of the Peace, in order that all the evidence might be taken (as it was) under the sanction of an oath, so as to render the information obtained as formal and accurate as possible.

From the copies of the documents, nineteen in number, which I have the honour herewith to transmit, and especially from the Report of the Commissioners, No. 1., and the affidavit No. 5, of Mr. Rea, you will perceive that the origin of the present affair may be traced to the assumption of jurisdiction by the State of New Hampshire, over the township of Drayton, or as it is otherwise called, the Indian Stream Settlement, and which has more than once formed the subject of remonstrance with the Government of the United States, through His Majesty's Minister at Washington. You will further perceive that on the 15th of October last Mr. Rea, who is a Justice of the Peace for the district of St. Francis, residing in the township of Hereford, in this province, issued his warrant upon the sworn information of one John H. Tyler, an inhabitant of the township of Drayton, for the apprehension of William Smith, John Milton Harvey, (American citizens) and Richard J. Blanchard, of Drayton, for having arrested the said John Tyler, under the authority of the Sheriff of Coos, in New Hampshire.

Under this warrant Richard J. Blanchard only was arrested on the 22nd of October at his residence in Drayton, and while the constables were conveying him to Mr. Rea's, he was forcibly rescued in the highway by a body of armed men, citizens of New Hampshire. The constables and others who had assisted in the arrest, immediately proceeded to inform the Magistrate of the rescue, and on their return home, when about fifty rods from his house, were again stopped on the public highway by one Miles Hurlburt, of Stuartstown, New Hampshire, and Ephraim Aldrich, of Drayton, two of the armed body, and both on horseback. On observing this, Mr. Rea, to avoid even the appearance of force, laid aside the stick which his lameness obliges him in general to use, and proceeded to remonstrate against this unwarrantable and illegal act, when Hurlburt presented a large pistol or carbine and threatened to fire upon him if he continued to advance. Mr. Rea, after frequently exhorting them without success, to retire, and receiving in return only threats and abusive language, directed Bernard Young, a peace-officer of the township of Hereford, to arrest Aldrich, who was apparently unarmed. On Young's attempting to execute the order, Aldrich drew a horseman's sabre from under his cloak and struck him a violent blow on the neck. At the same instant Hurlburt, who was about five yards distant, fired his carbine or pistol at Mr. Rea; the ball missing this gentleman, took effect on Young, and wounded him in a very dangerous manner. Immediately afterwards Aldrich inflicted a deep wound on Mr. Rea's head; and about this time, others of the armed party coming up, Mr. Rea attempted to make his escape, but was overtaken, nearly murdered, and eventually carried prisoner into Canaan, in Vermont, where, afterbeing detained some hours, he was enabled, through the interference of Herman Nichols, a Magistrate of that State, to return to his own home.

The scene of these violent proceedings is not on the disputed territory, but clearly within the limits of this province. The party engaged therein consisted of about fifty or sixty persons, although not more than eighteen or twenty appear to have taken an active part in the attack upon Mr. Rea, and in his subsequent abduction, of this number three only were inhabitants of Drayton, the remainder citizens of the United States, of whom one was a captain in the 24th regiment of the New Hampshire militia, named James Mooney, then in command of a detachment of fifty men quartered in the township of Drayton.

On a perusal of the accompanying documents you cannot fail to observe that His Majesty's Government has more than one distinct cause of complaint to bring under the notice of the American Government, arising out of these transactions. The first and most serious is the irruption within the undisputed limits of this province of armed citizens of the United States, under the command of, or countenanced by, an officer holding a commission in their militia, for the avowed purpose of attacking and forcibly carrying out of the province several of His Majesty's subjects. Secondly, the continued attempts of the State of New Hampshire, notwithstanding the repeated remonstrances of His Majesty's Government, to exercise jurisdiction and enforce its laws within a territory, which, until it shall be formally adjudged, to be part of the United States, under the Treaty of 1783, must be considered as still undetached from the original possession of Great Britain, and its inhabitants consequently within the protection of her Government. And thirdly, the military occupation by the State of New Hampshire of the territory in question; a proceeding which can be productive only of embarrassment to the two Governments, without varying in any respect the rights of either.

Having thus put you in possession of the principal features of this transaction, I feel it unnecessary to offer any suggestions, as to the specific redress, that ought to be demanded on the present occasion; and I the more readily abstain from this, under the persuasion that it requires nothing but a knowledge of the facts to induce the Government of the United States to adopt measures which will at once prove satisfactory to His Majesty's Government, and prevent the repetition of occurrences, tending to disturb the harmony and good understanding which now exists with so much advantage to both nations.

I have the honour, &c.

Charles Bankhead, Esq.

&c.

&c.

&c.

(Signed)

GOSFORD.

N.  
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Aggression and  
violation of terri-  
tory by citizens of  
New Hampshire.



## Inclosure 3 in No. 1.

*Report of Commissioners of enquiry into the Outrage at Hereford.**Lennoxville, January 1, 1836.*

X.

Aggression and  
violation of terri-  
tory by citizens of  
New Hampshire.

WE the Undersigned Commissioners appointed by your Excellency to inquire into and investigate certain offences alleged to have been committed by Ephraim H. Mahurin, Thos. B. Blodget, and other citizens of the United States of America, against Alexander Rea, Esq. and other subjects of His Majesty, in the province of Lower Canada, to examine witnesses under oath, touching the said complaints and to report what felonies, misdemeanors, breaches of the peace, and other offences, if any should appear to have been committed, by the said persons with the said Province of Lower Canada, having visited the townships of Hereford, Drayton, and Compton, and examined divers witnessess, have the honour to report, that it appears from the depositions taken before us, and herewith transmitted to your Excellency, that for a length of time attempts have been occasionally made, without success, by the authorities of New Hampshire, to exercise jurisdiction over the Indian Stream Settlement, in the township of Drayton, and that during the last twelvemonths, a disposition to reduce that settlement by force, under the controul of New Hampshire, has been more fully evinced by numerous acts of violence and oppression committed on the inhabitants, by persons professing to act under authority from the State of New Hampshire. It further appears that serious offences have been recently committed against the laws of this province, within its undoubted boundary, by armed parties from the State of New Hampshire; in the first place, by the forcible rescue of one Richard J. Blanchard, while he was being conducted to Hereford, under arrest, in virtue of a warrant from Alexander Rea, Esq. a justice of the peace, for the district of St. Francis, at a spot within the limits of the said township of Hereford, as will be seen, on reference to the accompany diagram and map, in which the same has been accurately marked by Captain Hayne, after actual survey; and secondly, by a violent attack on the peaceable and unprotected inhabitants of Hereford, by an armed body, acting under the directions of an officer in the New Hampshire Militia, of the name of James Mooney, in which Alexander Rea, Esq. and Bernard Young, inhabitants of Hereford, were severely wounded, and the former forcibly conveyed over the boundary into the State of Vermont, where, after having been subjected to much abuse and ill-treatment, he was released by a magistrate of that state. It appears to us that no satisfactory reason can be adduced in justification of these outrages, and that the only excuse offered in palliation is, that Alexander Rea, exercised undue authority in granting a warrant for the arrest of said Blanchard, and one Luther Parker, of Indian Stream, although at the time, he was acting in the course of his duty, as a magistrate, in consequence of the assurance given to the inhabitants of Indian Stream, that they should be protected by the government of this province. It also appears that no fair argument can be advanced in favour of the pretensions of New Hampshire to the Indian Stream territory, the words of the Treaty of 1783 being clear, and the boundary defined by the Connecticut River in that part, but it is attempted to substitute a tributary known by the name of Hall's Stream for the Connecticut River, although each of these has been known by the name, which it now bears, for upwards of fifty years. It moreover appears that Governor Badger of New Hampshire is connected with a company of land speculators, who claim the territory of Indian Stream, as their private property, under a pretended title from one King Philip, an Indian, which might possibly induce a belief that he is actuated, by other motives than state policy, in his attempts to annex it to the State of New Hampshire. It appears also that the inhabitants of Indian Stream Settlement, situated on the territory in dispute, between both countries, and over which jurisdiction had been occasionally exercised by each, formed and adopted a constitution for themselves for their better government, which was to become null and void on the final settlement of the boundary question. Amongst others, one Luther Parker took the oath to support this constitution, and was elected a member of the executive council, but having, through misconduct, forfeited the confidence of the inhabitants, they ceased to elect him, or to promote him to any office under the constitution, in consequence of which, he became dissatisfied, transferred his allegiance to the Government of New Hampshire, and has ever since, by misrepresentation to that Government and by other means in his power, continued to harass and disturb the peace of the inhabitants of Indian Stream, and leagued with five others, he forwarded a petition for protection to the Government of New Hampshire, falsely purporting to be a petition from the inhabitants of Indian Stream, but in reality signed by certain inhabitants of Colebrook, Stewartstown, and Clarkesville, in the State of New Hampshire. This Luther Parker was subsequently arrested under a warrant issued by Mr. Rea, for an assault on one Jonathan C. L. Knight, and conveyed to Sherbrooke county gaol, whence he was discharged on giving bail.

We have further to report to your Excellency, that several of the inhabitants of Indian Stream, obnoxious to the authorities of New Hampshire, on account of their attachment to the British Government, have been driven from their homes, that their houses have been rifled, their females abused, and their property sacrificed, and that the territory is now in the possession of a body of New Hampshire militia, consisting of fifty men, under the immediate orders of the same James Mooney, who was conspicuous in the affray at Hereford; that in our progress through the Indian Stream Settlement, in the prosecution of our en-

quiries, we were stopped on the highway, near the house of one Fletcher, (also marked on the accompanying figurative plan) by a military guard, composing a part of the force above-mentioned, who, at the point of the bayonet, commanded us to stand, and would not permit us to pass, although made aware of the authority under which we were acting: and we further report that several of the inhabitants of Indian Stream have been lately carried prisoners to Lancaster gaol, in the State of New Hampshire, for rebellion against the laws of that State, some of whom have been liberated on bail, but two of the number, viz. Emer Appleby and Ben. Appleby still remain incarcerated. Amongst those who were most active in the commission of the outrages above-mentioned, we would direct your Excellency's attention in an especial manner to Aldrich and Luther Parker, inhabitants of Indian Stream, the former being the person who cut Mr. Rea over the head with a sabre, and who afterwards attempted to take his life, and the latter who has acted as a spy and general disturber of the peace; as also to Miles Hurlburt, of Stewartstown, New Hampshire, who shot Bernard Young; James Mooney, the captain of the guard stationed at Indian Stream, Ephraim H. Mahurin, Thomas B. Blodget, and James L. Hillyard, who were the leaders of the party which rescued Blanchard; and to Joseph P. Wisnell; and we do further report, that from the disposition manifested by the authorities of New Hampshire, to oppress the inhabitants of Indian Stream, and the threats which are daily made of again offering violence to Mr. Rea, and others of His Majesty's subjects in that quarter, there appears to exist an absolute necessity for speedy measures being taken by the British Government for their relief and protection. We should humbly recommend to the favourable consideration of your Excellency, Bernard Young, who was severely wounded while acting as a peace officer, in the execution of his duty, under Mr. Rea, he being still incapacitated for labour, and much injured in his general health, and having no means of paying the fees of his medical attendant, or of earning a livelihood, except by the work of his hands; and in conclusion, we beg leave to observe, that we are indebted to Captain Hayne for his assistance in ascertaining and marking in the diagram and plan the situation of the different places referred to in the deposition of the witnesses, and in this our report, which is humbly submitted.

(Signed)

EDWARD SHORT.

J. McKENZIE.

BENJAMIN POMROY.

*The Earl of Gosford,*  
&c. &c. &c.

Inclosure 4 in No. 1.

*Report of the Survey of Hereford, by Captain Hayne.*

Gentlemen,

*Lennoxville, January 5, 1836.*

AGREEABLY to your desire, I proceeded to Hereford on the 18th ultimo, for the purpose of holding myself in readiness for the performance of any professional duty which you might deem it necessary to require of me, and in conformity with your after instructions, I made surveys of the roads in the immediate neighbourhood of the residence of A. Rae, Esquire, those passing over the mountain which separates Hall's from Leeche's Stream, as well as those which run along the west bank of the River Connecticut, commencing from the south-east angle of the township of Hereford, and terminating at a house now occupied by a detachment of the 24th regiment of the State of New Hampshire United States Militia, which said house or barrack is situated in the township of Drayton, or, as it is commonly called, in the "Indian Stream Settlement."

In the diagram handed to me for my further guidance, I have conspicuously marked the places to which you have called my particular attention, but having discovered several remarkable inaccuracies in the same, I have thought proper to furnish you with a plan of my work, constructed on a scale similar to that of the diagram above alluded to.

Having observed that the south outline of the township of Hereford, or province line, as delineated on the diagram, did not agree with that on the figurative plan, (herewith returned), I endeavoured to ascertain as accurately as the extremely unfavourable weather would allow, the point of intersection of the forty-fifth parallel of north latitude with the Connecticut River; the result of my operations you will find traced on the accompanying plan; I have, however, much reason to regret, that time and the circumstance before mentioned, prevented me from determining the point in question in a more satisfactory manner.

On the west bank of the Connecticut, I found a boundary post, having the names of "J. Carden and J. Collins, Quebec," carved thereon. This post has hitherto been considered and acknowledged by the neighbouring inhabitants as the south-east angle of the township of Hereford, and from which a line nominally due east and west has been traced in the field; this line, therefore, not only represents the southern outline of the township, but also the provincial boundary, according to the diagram and survey of the above-named individuals.

With respect to the line which indicates the forty-fifth degree of north latitude, on the figurative plan, I have every reason to believe it to be that which was determined by Dr. Tarks, in the year 1818; no visible land-mark or boundary line, however, now exists to shew the point of intersection of the said parallel of latitude with the Connecticut River; I was shewn the spot near to which the said line is supposed to strike the Connecticut, and

X.

Aggression and  
violation of terri-  
tory by citizens of  
New Hampshire.



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Aggression and  
violation of terri-  
tory by citizens of  
New Hampshire.

should have made search for some of the marks which I presume Dr. Tiarks must have made of this remarkable site, had I been in the neighbourhood at a less disturbed period.

It becomes my duty to inform you, that while engaged in the performance of the latter part of my survey, and in coming within a few chains of the barracks, I was accosted by Lieutenant Drew, one of the officers of the detachment of the 24th regiment of New Hampshire militia, who demanded my business and by whose orders I surveyed that part of the country. Fully aware who this gentleman was, I declined making any reply, until I first learned that the authority by which my proceedings were questioned emanated from the State of New Hampshire. Such is the excitement and alarm which the presence of the New Hampshire troops have occasioned both in Hereford and Drayton, that I could procure but one man who would consent to cross the Indian Stream in my employ; two, indeed, left me on reaching Hall's Stream up to the eastern bank, of which the authorities of the State of New Hampshire appear disposed to make their encroachments.

With reference to my opinion respecting the portion of the "north-eastern boundary" immediately connected with the claims made by the State of New Hampshire, on the territory known by the name of the "Indian Stream Settlement," I shall merely make an extract from the second article of the Treaty, dated Paris, September 3, 1783, and add a few remarks on the same, in the hope of convincing you of the absurdity of the claims set forth.

(Extract.) "From the north-west angle of Nova Scotia, viz. that angle which is formed by a line drawn due north from the source of Saint Croix River to the highlands; along the said highlands which divide those rivers that empty themselves into the River St. Lawrence from those which fall into the Atlantic Ocean to the north-westernmost head of Connecticut River, thence down along the middle of that river to the forty-fifth degree of north latitude, from thence by a line due west on said latitude until," &c. &c.

First, It appears to be well authenticated, that the waters which connect the lakes taking their rise at or near the point B, (vide the Surveyor-General's Figurative Plan), existed under the name of the "Connecticut River" prior to the date of the Treaty. As the middle of this river, therefore, forms the given boundary, no tributary can be claimed as the river itself; with equal justice, indeed, might the St. Francis, Chaudière, or any other of the tributaries of the St. Lawrence be now called, and *bonâ fide* considered, as that magnificent river itself.

Secondly, All the large streams flowing into the Connecticut, near the forty-fifth degree of north latitude, bear the same names at the present moment as they did in the year 1783; the Indian stream, therefore, can, under no pretext whatever, be styled the Connecticut River, neither can the claims of Hall's or Leech's Stream to the name of this river be considered in the least degree better grounded.

Thirdly, Hall's Stream unites with the Connecticut about two miles below the point of intersection of the forty-fifth parallel of north latitude with that river; it is clear, therefore, by the spirit of the Treaty, that Hall's Stream can have no title to the formation of any portion of the boundary, agreeable to the old and at present recognized point of intersection, and although the forty-fifth degree of north latitude, as more recently determined, will be found to strike the Connecticut about a mile below the junction of Hall's stream with the Connecticut River, it can in no wise strengthen the claims of the American Government, for the boundary line is to run down the middle of the Connecticut River to the forty-fifth degree of north latitude, and not down the middle of Hall's Stream to the same parallel of latitude.

In conclusion, I beg leave to observe, that the decisions of the arbiter in favor of the British claim on this particular point appears to justify the foregoing remarks, and further, that the non-settlement of this highly important question is peculiarly detrimental to the interests of Government, and particularly so to the poor settlers who have established themselves on or near the frontier.

I herewith enclose a pay-list of the men I have had occasion to employ on the late survey; my own travelling and contingent expences I must estimate at ten shillings per diem, and leave the remuneration for my services to the consideration and pleasure of his Excellency the Governor-in-Chief.

I have the honour, &c.

(Signed)

R. HAYNE, Capt. H.P.  
Royal Staff Corps.

*The Commissioners appointed to enquire into and investigate the outrages lately committed in the township of Hereford, Lower Canada.*

Inclosure 5 in No. 1.

*Deposition of Mr. Rea.*

*Province of Lower Canada, District of St. Francis.*

I, Alexander Rea, Esquire, one of His Majesty's Justices of the Peace for the district of St. Francis, residing in the township of Hereford, being duly sworn, do depose and say,

that on the 26th day of June last past, in consequence of a complaint made to me by Jonathan C. L. Knight, of the township of Drayton, in the district of St. Francis, stating, that on the sixteenth day of the same month of June, Sampson Thurston, of Indian Stream Settlement, in the said township of Drayton, did make an assault on him, forbidding him to enter his own house, and threatening to kill and put an end to his life, with other abuses which caused him to fear that the said Sampson Thurston would shoot, kill, or otherwise destroy and murder him, the said Jonathan C. L. Knight; and that Luther Parker of the said Indian Stream Settlement was aiding and assisting the said Sampson Thurston, by furnishing him with fire arms, and other weapons, counselling and harbouring him; in my quality of a Magistrate, I issued my warrant to apprehend the said Sampson Thurston and Luther Parker, and addressed the same for execution to one Reuben Lawyer, of Drayton, aforesaid, who, in virtue of the said warrant, arrested the said Luther Parker, at the township of Drayton, aforesaid, on the twenty-eighth day of the said month of June, and on the twenty-ninth, the following day, in the afternoon, brought him before me for examination; that at the request of the said Luther Parker, I permitted him to remain at Hereford until the morning of the first day of July for the purpose of enabling him to procure bail, which not having been procured by him on the said first day of July, I made and signed a *mittimus* for his commitment to the common gaol of the district of St. Francis, to which gaol he was accordingly conveyed. Two or three days after this I was called upon by Lewis Loomes, of Colbrooke, in New Hampshire, who said he was employed by the friends and relatives of the said Parker's wife, to proceed to Sherbrooke to procure the enlargement of said Parker, on bail, and requested that I would assist in the execution of his design. I accordingly wrote a note to Messrs. Colclough, Nichols and Moe, Magistrates at Sherbrooke, requesting that they would facilitate the liberation of the said Luther Parker, as far as consistent with their duty, stating to them the amount of bail which I had demanded, and delivered the said note to the said Lewis Loomes. I was induced to write the said note, having heard that the wife of the said Luther Parker was in a distressed situation, owing to the imprisonment of her husband; and further for the purpose of saving him, the said Parker, from the expense attendant upon the obtaining a writ of *habeas corpus*.

Some time in the month of August last past, a petition signed by sixty-four persons residing in the said Indian Stream settlement, in the township of Drayton, complaining of an exercise of jurisdiction on the part of the State of New Hampshire, was brought to me by one Zebulon Flanders, to be forwarded to the Governor of the Province, which petition was accordingly forwarded by me through John Moore, Esquire, one of the Members of the Assembly of this Province for the county of Sherbrooke. On or about the twentieth day of September last past, I received a letter from the said John Moore, inclosing a copy of a letter signed by S. Walcott, the civil secretary of the province, in answer to said petition from the inhabitants of the said Indian Stream settlement. In consequence I addressed a letter to certain influential inhabitants of Indian Stream settlement, soliciting them to hold a meeting on the 26th day of the said month of September, at which I stated I should be present to acquaint them with the contents of the said communication, and to advise with them on their situation at that time. I accordingly attended at a meeting of the inhabitants of the said Indian Stream settlement on the twenty-sixth and twenty-seventh days of the said month of September, at which, having made known to them the said communication from the said civil secretary, recommended that committees should be appointed, one consisting of five persons to recommend two fit and proper persons to the Executive to be appointed Magistrates, and the other of three for the purpose of drawing up a statement for the information of His Excellency, the Governor-in-Chief, representing the outrages and encroachments committed by the inhabitants of the State of New Hampshire, under the pretended authority of that State upon them, the inhabitants of Indian Stream settlement.

Some days after this, the proceedings of the said meetings were handed to me by the clerk of the said meetings, and by me laid before the Bench of Magistrates sitting in general sessions of the peace at Sherbrooke, in the month of October last, and by them ordered to be forwarded to Government.

Afterwards, about the fifteenth day of October last, being at Compton on my way home from the sessions at Sherbrooke, I received a communication from certain inhabitants of Drayton, stating that John H. Tyler, one of the inhabitants of said Drayton, had been arrested by William Smith, John Milton Harvey, and Richard J. Blanchard, deputy sheriffs, the two former, citizens of the United States, residing at Colbrooke, in the State of New Hampshire, and the other an inhabitant of Indian Stream settlement, in the township of Drayton, all acting under the authority of the high-sheriff of the county of Coos, in the state of New Hampshire, stating also that they had rescued the said John H. Tyler and praying my interference and assistance; that I declined proceeding upon the said communication, the same not being under oath, but on my return home I informed one of the persons who had signed the said communication, that the complainant, John H. Tyler, must make affidavit of the facts before I could be justified in granting a warrant or interfering in any way in the matter; and that the said Tyler might make a necessary affidavit at any convenient opportunity, and that there did not appear to be any necessity to be in a hurry about it. Afterwards, in the said month of October, the said John H. Tyler appeared before me and made the necessary deposition, and demanded a warrant against the said Smith, Harvey and Blanchard, which I granted; the said John Tyler having informed me, that unless he procured the said warrant, and had it executed immediately, he would lose the opportunity of putting it into execution, as threats had been made that an armed force would come in from the State of New Hampshire, to take him and others who had rendered themselves obnoxious by claiming pro-

X.

Aggression and violation of territory by citizens of New Hampshire.



## X.

Aggression and  
violation of Terri-  
tory by Citizens of  
New Hampshire.

tection from the authorities in Lower Canada. The said warrant was directed to Zacheus Clough and Zebulon Flanders, and delivered to them for execution. On the twenty-second day of the month of October last, in the afternoon, the said Zacheus Clough, one of the persons to whom the said warrant was addressed, accompanied by a number of persons, namely, John Parker, Zebulon Flanders, Bernard Young, Paschal G. Blood, Marcus Beecher and others of the township of Hereford; John H. Tyler, Alanson Cummings, John Smith and others of the Indian Stream settlement, in the township of Drayton, came to my house and informed me that the said Richard J. Blanchard had been arrested, in virtue of the said warrant, at his dwelling-house in the township of Drayton, and whilst he was being conveyed by them in the King's highway, leading from the township of Drayton to my house in Hereford, they were prevented proceeding by Ephraim H. Mahurin, Minor Hillyard, John Milton Harvey, and other inhabitants of New Hampshire, to the number of seventeen, all armed with guns, pistols, swords and other weapons, the greater number mounted on horseback who forcibly rescued and carried off the said prisoner Richard J. Blanchard, at a place a few rods west of the house of one Moses Perly, in the township of Hereford. Whilst I was receiving their statement, a person of the name of Emor Appleby, an inhabitant of the township of Drayton, who is now a prisoner in the Lancaster gaol, in the State of New Hampshire, came in and stated that he had been pursued by about twenty armed men of the State of New Hampshire, among them one Wiswell, a justice of the peace, and that he was obliged to take to the woods in the Tabor Settlement, in Drayton, to make his escape from them; having been summoned by them to surrender, he had threatened to shoot the first man that advanced upon him, being armed with a fowling piece. I requested him to lay by his arms in the corner of the room which he did, and there they remained.

After I had reduced to writing the depositions of the above named persons relative to the rescue of the said Blanchard, and was in the act of closing the same after the departure of some of these persons from my house, one of those who had departed returned again, and stated to me that they were coming; and upon my asking who were coming, stated, "the New Hampshire fellows." I observed that it could not be; that they would not have the assurance to come here. I looked out, and saw, about fifty rods from my house, the persons who had made their depositions before me, stopped in the highway. I thereupon went out to meet these people, with the intention of doing my duty as a Magistrate to keep the peace; and, contrary to my usual custom of wearing a stick, which I am obliged to do in consequence of lameness, I abstained from taking it with me on this occasion, least it should be imagined I intended to have recourse to any harsh measures. On my arrival at the above-mentioned spot in the King's highway, I found six or eight of the peaceable inhabitants of Hereford and Drayton pursuing their way home, some on foot and some on horseback, brought to a stand by two persons mounted on horseback; one of them, Miles Hurlburt, a citizen of Stuartstown, in the State of New Hampshire, posted across the road facing these individuals, with a brass barrelled carbine or horse-pistol in his hand levelled at them. When I came up in front of the persons who had been stopped, I was saluted by the said Hurlburt in these terms, at the same time presenting his pistol, "Stand off, or God damn you I'll blow you through." I continued to advance up to him, and enquired of him what he meant by such outrageous conduct in preventing the peaceable inhabitants from pursuing their way quietly on the King's highway, and told him that such proceedings could not be allowed on this side of the line, but to take himself over to the other side, and that he might conduct himself in any manner that the authorities there would allow him. He evidently appeared to be in a state of inebriety, and frequently repeated, "Stand off, God damn you, or I'll blow you through." The other individual, by the name of Ephraim Aldrich, an inhabitant of Drayton, one of the signers of the petition for protection to the Government of this province, whom I had not particularly noticed, and who had been up to my house in the course of the day, when I was not at the house, and who probably came as a spy to find out the unprotected state of the people on this side the line, spoke up and said, "Rea, you had better stand off, or he'll do you an injury." I turned round, and then for the first time recognizing who he was, said, "What, Sir, are you here on this business? if you have any influence with this drunken fellow, take him and yourself peaceably away over the line: we want nothing of you here, and we cannot allow the peaceable inhabitants to be stopped in the way in this manner." He gave me some abusive answer. As a Magistrate I commanded him to retire with his companion and suffer the peaceable inhabitants to pursue their course on the King's highway, as such conduct could not be permitted. He returned for answer that he would go when he had a mind to do so, and that I had better mind my own business. Not perceiving he was armed, I requested, as a Magistrate, Mr. Bernard Young, a peace-officer for the township for Hereford who was present, to take him into custody. Mr. Young took the horse by the bridle, and laid his hand on him for the purpose of making a prisoner of him; at that moment Aldrich drew a horseman's large sabre from under his coat, and I, perceiving that he was armed, made every exertion to arrest his motion by seizing his sabre arm, but too late to prevent a blow which he had aimed at Young the peace-officer from taking effect, which struck him on the neck, and nearly brought him to the ground. At the same instant Hurlburt, who was at the distance of about five yards on horseback, levelled his carbine at me and fired, but owing to its weight and his unsteady hand, the shot missed me, and took effect on Young, wounding him through the thigh and the private parts in a very dangerous manner. From the exertions Young made after the carbine was fired, I did not suppose that he had been wounded. At the same instant I seized on the bridle of Aldrich's horse. He, however, wheeled round, and broke from my grasp, giving me at the same time a deep cut on the head with his sabre cutting through a straw hat which I had on. The persons who had

been stopped, as well as myself, then took up stones and pelted Aldrich and Hurlburt, who made off on their horses, but on observing an armed party of five or six men coming out of the mill-yard at the back of the blacksmith's shop, where they had been in ambush, they wheeled round and returned with them. The party who came from the mill-yard at this time fired three shots from muskets with bayonets on them which did not take effect. One of the balls struck the knoll where I was standing, which ball I have now in my possession. At this moment I perceived another party coming round a point of hill below the mill, consisting of ten or twelve armed men, with a baggage waggon in their rear. This party fired two shots at us, which did not take effect, as they had not come within range at that time.

On perceiving this last party I observed to the persons with me, that they had better provide for their own safety by flight as we had no arms and could not resist such odds. From the threats I had heard made use of, and the brutal state of intoxication in which I supposed many of them to be in, I had every reason to expect that they were determined to have me, dead or alive. I consequently, with a view to divert the attention of this mob from my family and dwelling, passed through some bars that were down in the fence of my pasture field, and stopped to put up two of the bars to prevent the horsemen from overtaking me as soon as they otherwise would, and whilst putting up the bars, the said Ephraim C. Aldrich snapped two loaded pistols at me, which missing fire he threw at my head. I then made my escape into the bushes, but Aldrich having got off his horse pursued me on foot with his drawn sabre, followed by four or five others, and owing to my lameness I stumbled several times, and having fallen over a large log, Aldrich overtook me as I had fallen on my face, and grasped my neckhandkerchief and made a plunge at me with his sabre, but facing round in sufficient time to seize it, and in the struggle divert it from my person, it was forced into the ground about two feet where I managed to detain it until his followers came up, he in the mean time kicking and trampling on me, swearing that he would have my heart's blood; by this time three more of them came up, two with fixed bayonets, the third armed with a carbine and two pistols stuck in his belt; those with the bayonets threatened to run me through if I did not surrender. One of them I knew, Asa Parker, then living in Drayton, the other I have been informed was one Joseph Pope Wiswell, a citizen of Clerksville, in the State of New Hampshire. The person with the carbine and pistols was a doctor Terrill, of the last-mentioned place. I told them I did surrender; Aldrich still continuing to kick me, and endeavoured to choke me with my neckhandkerchief. The said doctor Terrill then advanced, and addressing himself to Aldrich said, "are you not ashamed to kick the man when he is down?" Aldrich still continued his violence notwithstanding, until another person, armed with a musket and bayonet, whose name I have since learnt is ——— Small, of the State of New Hampshire, who ordered Aldrich to desist as I had surrendered, and what more did he want. Aldrich refused until I should give up the sabre, which I declined doing until my personal safety was secured, which the said Small assured me should be the case, and Aldrich pledging himself to the same effect, I relinquished my hold of the sabre, Aldrich however still attempted to strangle me, and kicked me again several times in the side; being assisted by Small I got up, and they carried me off, Aldrich on one side, Small on the other, doctor Terrill in front brandishing his weapon, and Joseph Pope Wiswell and Asa Parker, with fixed bayonets, in the rear, threatening to run me through if I did not move on faster; when they got me as far as the highway, we were met by a person whom they styled Captain Mooney; Aldrich, said Captain Mooney, bring on the baggage waggon, and said Mooney called out "bring on the baggage waggon," into which they thrust me. The waggon was drawn by two horses; I was placed alongside the driver, on the seat. Aldrich with his drawn sword in front, Wiswell with his fixed bayonet, and doctor Terrill armed in the rear. In this way I was carried down to the house of Josiah Parmely, and N. H. Joy, who keep a tavern and store in Canaan, in the State of Vermont. On the way down they abused and ill-treated me in various ways, threatening if I stirred or spoke they would run me through. On my arrival at the house of Parmely and Joy, in Canaan, I found a gathering of from sixty to a hundred armed persons, including those who had come across the line, the whole, with few exceptions, from the State of New Hampshire, more or less, in a state of intoxication. I was ordered to get out of the waggon, and then dragged in the store of Parmely and Joy. On getting into this store I went to the upper end of it, where I perceived six or seven persons, apparently strangers, and three or four of the inhabitants of Canaan, who appeared to have no connection with the mob from New Hampshire. Among these inhabitants of Canaan I recognized a young man of the name of Herman Nichols, I enquired of him whether he was a magistrate of Vermont, he answered that he was; I then told him that a most infamous outrage had been committed by this armed mob, in dragging me from my own farm and from my own country, and that as a magistrate of the State of Vermont, I claimed from him the protection of the laws of that state; he said as far as was in his power, I should have his protection. Whilst this conversation was going on, Aldrich called out to Mr. Joy, one of the proprietors of the house, "Joy, bring on the liquor." Joy observed that he had had enough, to which Aldrich replied "what do you mean? God damn you, bring on the liquor," repeating it several times, to which Mr. Joy again rejoined not so fast, not so fast, Mr. Aldrich you have had enough. Both Parmely and Joy, from their appearance and conduct, appeared fearful that some disclosure might take place and the impression on my mind was that they were in some way connected with the perpetrators of the outrage.

X.

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Aggression and  
violation of terri-  
tory by citizens of  
New Hampshire.



X.

Aggression and  
violation of terri-  
tory by citizens of  
New Hampshire.

Hearing the conversation I had with Mr. Nichols, Aldrich, and Wiswell, and a man of the name of Tuttel, assisting them, attempted to drag me out of the house, Aldridge saying "Come, come, it is time to be off;" I observed, that I should not willingly leave those premises, unless to return home, they having no authority from the State of Vermont to control me. Mr. Nicols, the magistrate to whom I had addressed myself on going into the house, interfered and stated that he forbid their having any control over me, unless they could shew their authority from the State. They continued, notwithstanding, to exercise force in dragging me towards the door; I caught hold of a person who was standing at the counter, and he caught hold of me, and by that means prevented their dragging me out. Parmely, one of the proprietors, stepped up and stated, that if they had any precept to control me or my actions, to produce it, and if they could not he should protect me as long as I chose to remain in his house. Mr. Nichols, the magistrate, requested me to go into another room, that he wished to speak to me, endeavouring to withdraw me from the mob. Aldrich followed, still claiming to have me in custody. Micajah Ingham, senior, Micajah Ingham, junior, Archilaus Cummings, senior, — Heaton, senior, — Heaton, junior, and Josiah Parmely and John James McKinnon came into the room also. Parmely, one of the proprietors of the house, wished to withdraw me into another inner room, which Aldrich wished to prevent, saying, that I was in his custody. Parmely said to him, "What do you mean? shew your precept; if you have any, produce it," and then said to him, "Walk out, sir, I want your room, and not your company," and with that opened the door, and made him walk out. Aldrich wanted to know whether he could not see me in half an hour. Parmely told him he did not know whether he had any right to see me or not. After this, James McKinnon assisted me to dress my wounds, and whilst he was so doing a good deal of conversation took place in regard to the propriety of using exertions to disperse the mob, some stating that there would be risk in so doing, they being armed. I told them I did not wish them to risk their lives or property on my account, but that I expected my personal protection from them, and the protection of the laws of Vermont, and that I was anxious to get home to my family as soon as possible, having heard that Young was laying dangerously wounded at my house, without medical assistance, and being apprehensive that some of the armed mob might have been about my premises, and might have frightened my family. It was by this time eight o'clock in the evening, and being faint and exhausted, I took some refreshment which was offered me. The mob having dispersed, I returned home accompanied by Mr. McKinnon of Canaan, and Mr. Dean of Hereford, who happened to be at Canaan, and on his way home. Near my house I met Zebulon Flanders, and two or three others, inhabitants of Hereford, who had been dispersed by the mob that afternoon; and when I arrived at my house, I found my family very much alarmed, and Mr. Young in a very dangerous state. Every thing had been done for him that could be done, and Dr. Heaton of Canaan sent for. I sat up with him the whole night notwithstanding my own wounds. Insulting messages were, at different times, sent to me after this, and messages threatening that I and others should be dragged over the line. From divers depositions and statements under oath made before me, it appears that since the twenty-second day of October last, until the present moment, there has been an armed mob stationed in the township of Drayton, under the command of the same Captain Mooney who ordered up the baggage waggon when the outrage was committed at Hereford. I do not know of any other cause for their committing this outrage on the twenty-second day of October last, except my having issued warrants as a Magistrate against Parker and Blanchard. To the best of my knowledge there were at least twenty persons actively concerned in the outrage at Hereford, on this side of the line. Whilst in Hereford when they were carrying me away in the waggon from the scene of action, they shouted, "Hurrah for Jackson, we have got the damned old he one;" and repeated the same exclamation as they passed the custom-house in Canaan. The reason I was conveyed into the State of Vermont instead of immediately into New Hampshire by the mob is owing to the circumstance of the road leading through a part of the State of Vermont to get into New Hampshire. They expressed their determination to carry me to Lancaster gaol, in the state of New Hampshire. Three of the party only were from the Indian Stream settlement, in the township of Drayton, namely, Ephraim C. Aldrich, Jeremiah Aldrich, and Asa Parker, the two former were signers of the petition to the Government of Lower Canada for protection; Bernard Young, who was dangerously wounded in the affray at Hereford, remained at my house for a fortnight before he could be removed home, and was attended by Dr. Watson of Sherbrooke, and Dr. Heaton from Canaan. He is still labouring under the effects of his wound, and unable to work. On Mr. Parmely interfering in my behalf, when at his house as aforesaid, one of the armed mob, Robert Terril, of Stewartstown, in the State of New Hampshire, called out, "No threats Old Parmely; God damn you, no threats." When we first arrived at Parmely's store in Canaan, among the most active I recognized one Hiram Fletcher, an attorney of Colbrook, in the State of New Hampshire, flourishing his rifle and shouting out, "Hurrah for Jackson; here is old Rea; we have got the damned old rascal." I saw also there, apparently intimately connected with the mob, Halsey Dunning, an inhabitant of the township of Hereford.

(Signed)

ALEXR. REA, J. P.

Sworn before us at the township of Hereford, this 29th

Dec., 1835.

(Signed)

EDWARD SHORT.

BENJAMIN POMROY.

J. McKENZIE.

## Inclosure 6 in N. 1.

*Deposition of Bernard Young.**Province of Lower Canada, District of Saint Francis.*

X.

Aggression and  
violation of terri-  
tory by citizens of  
New Hampshire.

I Bernard Young, of the township of Hereford, in the district of Saint Francis, being duly sworn, do depose and say, that on the 22d day of October last, Zacheus Clough called at my father's house where I reside, with Richard J. Blanchard of the Indian Stream Settlement in Drayton, in his custody, and demanded my assistance, as a peace officer, to assist him in conducting the prisoner before Mr. Rea, a justice of the peace for the district of St. Francis, residing in the said township of Hereford; before I would go with said Clough, I requested to see his warrant which he shewed me, and I then accompanied him; previous, however, to leaving the house, Mr. Clough stepped over to the house of James Prouty, leaving the prisoner in charge of Mr. Benjamin Appleby, Zebulon Flanders and Alanson Cummings. The reason Mr. Clough assigned for requiring the assistance of so many persons was, that he was apprehensive that a rescue of the prisoner would be attempted by some persons from the State of New Hampshire. We proceeded quietly on without interruption until we had passed about forty rods beyond the house of Moses Perly, in the township of Hereford, on the road leading from Hall's Stream to Leach's Stream. Our party was then composed of Zacheus Clough, Zebulon Flanders, John Parker, James Prouty, Marcus Beecher, and myself, of the township of Hereford, and Alanson Cummins, Benjamin Appleby, and John H. Tyler of the Indian Stream Settlement, in the township of Drayton; we saw there a man on horseback coming up to us at a smart trot, who proved to be James Minor Hillyard, he passed us and immediately turned his horse round upon our rear, we then saw in front eight men on horseback armed with guns, pistols and bayonets, and I knew eight out of the nine forming their company, namely, Ephraim H. Mahurin of the town of Columbia, Horatio Tuttle, James M. Hillyard, Samuel Weeks, jun. of the town of Colbrook, Thomas Piper, and Thomas B. Blodget of Stuartstown, Joseph P. Wiswell and Miles Hurlburt of Clarksville, all in the State of New Hampshire, one of the United States of America. The first person who spoke I think was Horatio Tuttle, who, addressing me, said, "Young, you poor mean scoundrel, I am sorry to see you here," to which I answered "not sorrier than I am to see Mr. Tuttle." The said Tuttle then presented his gun at me, commanding me to stand, or fall in the rear, or that he would blow me through. I, with one of the others, being at the time a little in advance of the rest of our party, and they then came up to us and were ordered by the armed party to stand. Ephraim H. Mahurin dismounted and directed our prisoner Blanchard, and told him to mount his horse. Paschal G. Blood, who had been called upon to join our party then came up, Mahurin said, he was determined to take Blanchard even if blood should be spilt for it. Blood said to him that if he should do so, it would not be the first time, to which Mahurin rejoined, that he knew very well who that was meant for, and had in his hand at the time a double-barrelled fowling piece which was cocked. I was talking to Thomas Piper at the same time, and said to him, my good man you were not obliged to come here, to which he answered, he was obliged to come or pay fifty dollars fine, I told him that they could not compel him to come farther than Stuartstown Bridge, to which he made no reply. Tuttle and Blodget rode forward, and addressing their own party said, how many, and which persons do you wish to make prisoners and carry off; some of them answered we want Clough, Flanders, Tylers, and their prisoner Blanchard. I told Clough not to go by mere telling, that they had ordered me to go too, but not to do so unless they used force to compel us. There was a good deal of talking and I cannot remember every expression; I remember Hillyard saying, we have got Blanchard and we had better let the rest of them go; I remember perfectly that Blodget and Tuttle presented their guns at us, commanding us to stand or they would blow us through. The armed party carried off Blanchard by force, after they had left us they made off towards the State of Vermont, and a little time afterwards we heard them shouting, and at the same time saw six men coming out of a small wood on foot; five of them were armed, they took the direction of the others apparently to join them, we then proceeded to the house of Mr. Rea to make a statement under oath of what had occurred. One deposition was made out, which we all signed and swore to, when I was leaving Mr. Rea's house some of the persons who had made their depositions and had left before me, called out, "they are coming," I went to see who were coming, and I saw Ephraim C. Aldrich and Miles Hurlburt drawn up in the highway about fifty rods from Mr. Rea's house. Mr. Rea came out of his house and said to me, "you are not afraid to go down are you?" and I immediately with Mr. Clough followed him to the place where these persons were drawn up, Mr. Rea demanded of them what their reason was for stopping people on the highway, to which Mr. Hurlburt replied, stand back, or "I'll blow you through." Mr. Rea said he was not afraid of his missile, telling him, that as a magistrate he was bound to keep the peace, and wished him to take himself off. Ephraim C. Aldrich then said to Mr. Rea, you had better stand off, the man may do you an injury. Hurlburt kept his pistol presented at Mr. Rea during this time. Mr. Rea made some remark to Aldrich, and Aldrich replied, but what they said I do not remember. Mr. Rea, however, told me to take Aldrich in charge. I stepped forward and laid my hand on his horse's bridle, and at that moment he drew a sword which I had not seen until then, and with it struck me on the neck, which brought me into a stooping position, I then looked up to see whether he was about to strike me again, and saw him strike Mr. Rea over the head with his sword, and at the same moment I heard the report of a pistol and received its contents. I then saw Hurlburt making off in the direction of the line, shouting out,



N.  
 Aggression and  
 violation of terri-  
 tory by citizens of  
 New Hampshire.

"Shoot them, damn them come on." I then saw a number of armed men coming out of Mr. Rea's Mill yard, upon which the persons who had accompanied Mr. Rea, left the ground and ran in different directions; previous, however, to the persons coming out of the mill yard, after Mr. Rea had been struck with the sword and the pistol had been fired which took effect on me, the persons with Mr. Rea took up stones and drove them off. As I was making towards Mr. Rea's house, I heard the report of three or four guns. I stopped a moment to examine the extent of the wound which I had received, and found that the ball had entered my right thigh and passed through, injuring one of my testicles. Looking up I saw Mr. Rea making through one of his fields towards the bushes, and saw Doctor Terril pursuing him, I then proceeded on to Mr. Rea's house, where I had just arrived, when two of the armed party came up the road in front of his house, asking for some person whose name I did not hear. One of these men I knew to be Robert Terril, of New Hampshire, the other I did not know; they were both armed. I was confined in bed for fifteen days at Mr. Rea's house, and was then removed to my own where I was confined to my bed for a fortnight longer. I am still unable to do much work, and feel great pain and inconvenience from my wound, my general health also has suffered in consequence. I have a wife and family to support, and have not the means to pay the charges of the medical gentlemen who attended me, amounting together to the sum of £9 18s. 9d. The medical gentlemen who attended me were Doctor Henry Watson of Sherbrooke, and Dr. Charles Heaton of Canaan, in Vermont. I know of no cause for the people of New Hampshire mal-treating Mr. Rea, but have heard it assigned as a reason that he exercised jurisdiction over the inhabitants of the Indian Stream Settlement in the township of Drayton, which the inhabitants of New Hampshire contend he has no right to do, but that they have it under their own jurisdiction.

(Signed) BARNARD YOUNG.

Sworn before us at Hereford this 26th day of December, 1835.

(Signed) EDWARD SHORT.  
 J. McKENZIE.  
 BENJAMIN POMROY.

Copy.

Barnet Young to Charles Heaton for services in Surgery, Dr.

Fourteen visits . . . \$19 : 75  
 (Signed) CHARLES HEATON, M.D.

Copy.

Alexander Rea, Esq.  
 To H. Watson, Surgeon.

Sherbrooke.

Two visits to Hereford to see Mr. Young . . . £5 0 0

Inclosure 7 in No. 1.

*Deposition of William White.*

*Province of Lower Canada, District of Saint Francis*

I, William White, of the township of Hereford, in the district of Saint Francis, farmer, being duly sworn, do depose and say, That two years ago last April I went to reside at Indian Stream Settlement, in the township of Drayton, and continued to reside there until about ten weeks ago; there were at the time I went to live there about four hundred and seventy inhabitants, they had about two years previous formed a constitution and code of laws for their own government. The execution of the laws was entrusted to a council elected by the inhabitants and the interpretation of them in the last resort. This council was elected annually; I was elected one of the council in the month of March, after my arrival in the settlement, and re-elected last March. Some time in January or February last, Eneas Rowell, an inhabitant of the Indian Stream Settlement, was arrested by William Smith of Colbrook, in New Hampshire, a deputy sheriff of the county of Coos, in the said State, and conveyed by him to Lancaster gaol, whence he was liberated on giving bail to stand his trial. This being the first instance in which the practical exercise of jurisdiction over the Indian Stream Settlement had been successfully attempted, excited considerable alarm among the inhabitants, and other attempts being afterwards made to enforce the laws of the State of New Hampshire among us, it was resolved upon to call a meeting of the inhabitants to devise means of protection, and the result of the meeting was a nomination of a committee of persons to draft a petition to his Excellency the Governor of Lower Canada, praying for protection, and to circulate the said petition for signatures. The petition was accordingly got up and signed by all the heads of families in the settlement, except four or five. I signed it myself, and the said petition was forwarded to Mr. Rea, to be forwarded to Government. Some time afterwards, before we had received any answer to our petition, having been informed that warrants had been issued by the authorities of the State of New Hampshire, for the apprehension of several of the inhabitants of Indian Stream, and that a militia force had been ordered out to assist the sheriffs and officers in the execution of the

said warrants, the inhabitants of Indian Stream met and resolved to despatch messengers to meet a Colonel White, high sheriff of the county of Coos, in New Hampshire, who it was understood was on his way to the settlement, to inform him, that although the inhabitants of the settlement would not acknowledge that the authorities of New Hampshire had any jurisdiction over them, yet they wished to prevent the coming of the militia, and would not resist the officer or officers who might be charged with the execution of the said warrants. John Haines and I were despatched for that purpose, and we met Colonel White, at Stuartstown, in New Hampshire, and made known to him our resolutions. Colonel White then informed us that if he could be satisfied that the inhabitants of Indian Stream would not resist the officers, he would countermand the militia, which he stated had orders to march with the officers on the second day after this interview, and said he would accompany us to Indian Stream to ascertain that point. He accompanied us to Clerksville, and there requested us to go forward and call together the inhabitants to receive him on the following morning. We accordingly did as he had desired, and he came to Indian Stream on the following morning, when the inhabitants agreed not to offer any resistance to the authorities of New Hampshire, but protested against the attempts which were made to exercise jurisdiction over them by that state.

Some time afterwards, in the month of August last, Alexander Rea, Esquire, a magistrate in Hereford, informed us that he had received an answer to our petition to the Government of Lower Canada, and advised a meeting to be called on the following Saturday, which he proposed to attend for the purpose of communicating that answer to the inhabitants and for other purposes. The meeting was called, at which Mr. Rea attended, and a committee named to recommend to the Government of Lower Canada fit and proper persons from among the inhabitants of Indian Stream to be appointed magistrates. A short time after having been informed that threats had been made by the inhabitants of New Hampshire to take me dead or alive, and being apprehensive of my personal safety, I left the settlement and came to Hereford, where I now reside. Since my departure I have been informed that my house has been rifled of nearly all its contents. I forgot to mention before, that some few of the inhabitants of Indian Stream refused altogether, upon any conditions, to submit to the authorities of the State of New Hampshire.

(Signed) WILLIAM WHITE.

Sworn before us, at Hereford, this      day of December, 1835.

(Signed) EDWARD SHORT.

J. McKENZIE.

BENJAMIN POMROY.

Inclosure 8 in No. 1.

*Deposition of Henry Watson.*

*Province of Lower Canada, District of St. Francis.*

I, Henry Watson, of the village of Sherbrooke, in the township of Oxford, surgeon, being duly sworn, do depose and say, that I was called upon about the 25th of October last, to visit Mr. Bernard Young, who was lying wounded at the house of Alexander Rea, Esq. at Hereford; he had received a gun shot wound which had passed through the superficial integuments of the right thigh and scrotum, and wounded the testicle, the wound was a dangerous one, and would probably incapacitate him for labour for some time, perhaps six months; I at the same time examined a wound received by the said Alexander Rea, Esq., which had been inflicted by a sabre over the left parietal bone, which was of about an inch and a half in length, and down to the bone; I visited the said Young a second time on the 17th of November, and he had then improved a little; my charge for the two visits which I made to said Young at Hereford, a distance of thirty-five miles from my place of residence was £5; I examined him again this morning, and find that he is not yet fit for labour, for which I have charged him the further sum of 10s.

(Signed)

HENRY WATSON.

Sworn before us at Lennoxville, this 31st December, 1835.

(Signed)

EDWARD SHORT,  
BENJAMIN POMROY,  
J. McKENZIE.

Inclosure 9 in No. 1.

*Deposition of Zebulon Flanders.*

*Province of Lower Canada, District of St. Francis.*

I, Zebulon Flanders, of the township of Hereford, in the said district of St. Francis, farmer, being duly sworn, do depose and say, that some time in the month of October last, a man of the name of James H. Tyler, of the Indian Stream Settlement, in the township of



A.

Aggression and  
violation of terri-  
tory by citizens of  
New Hampshire.

Drayton, came to my house with a warrant for the apprehension of Richard J. Blanchard, Wm. Smith and Milton Harvey, the former an inhabitant of the said Indian Stream Settlement, the two latter, inhabitants of Colbrooke, in the State of New Hampshire. The said warrant was addressed to me and Zacheus Clough, which he requested me to execute on the following day; I went with him to the Indian Stream Settlement, and on my way met with Z. Clough, to whom I shewed the warrant, and requested him to accompany me, which he stated he could not do at that time, but would meet me there in a short time; this was about twelve o'clock at noon. I then proceeded on to the house of Alanson Cummings, and staid there all night; Clough came there in the evening, as he had agreed to do; next morning Clough and I went to the said Blanchard's dwelling-house, and took him into custody; in about two hours afterwards he left the house accompanied by the said Blanchard, for the purpose of bringing him before Mr. Rea; when we had proceeded on the road about half a mile, we heard that Clark Haines had galloped off to New Hampshire for the purpose of procuring assistance to rescue Blanchard out of our custody; hearing of this, we requested Alanson Cummings, Benjamin Appleby, and Emor Appleby to bear us company, which they complied with; we had proceeded half a mile further, when we heard that Ephraim Aldrich had accompanied said Clark Haines over to the State of New Hampshire for the same purpose; and meeting with Jerry Aldrich and James Washburn, we ordered them to accompany us, which they did for about a mile and a half, when coming near Ebenezer Fletcher's house, in Drayton, they ran away from us; we then proceeded quietly to the house of Mr. Young, in Hereford, where we met with Ephraim C. Aldrich, Miles Hurlbert, and Joseph Pope Wiswell, who came in whilst we were there, and who wished us to compromise the matter. We stated that we had no authority to compromise the matter, and could not do so, and then left the house to proceed on our way to Hereford, accompanied by Bernard Young and Mr. Prouty, until we got to my house. Mr. Beecher joined us there, and we proceeded as far as Mr. Blood's. Clough went to Blood's house, to require his assistance; we proceeded, and Blood joined us in a few minutes; we had not gone far when we observed a man on horseback, galloping up to us; the man was Minor Hillyard, of Stuartstown, in the State of New Hampshire; he galloped past us, and then turned his horse, and we then perceived a number of men, nine or ten, armed with muskets, bayonets and pistols, mounted on horseback, drawn up in rank in the middle of the road; when we came up with them I recognised Joseph Pope Wiswell, Thomas Piper, Horatio Tuttle and Ephraim H. Mahurin, all of the State of New Hampshire. Among the party we advanced until we came up with them, when they commanded us to stand and surrender every damned one of us. I asked, by what authority, gentlemen? This is our authority, brandishing their weapons; we shall take you prisoners, because we are able; after some noise and conversation they agreed to let all go but John Tyler, Clough, Blanchard and myself, particularizing us by name: we none of us were willing to surrender, and said we would not, still keeping our prisoner, and they threatening to "blow us through" and commanding us to fall in. After some consultation among themselves they agreed to let all go, provided we would give up Blanchard, our prisoner; I said we should not, and told Prouty to keep fast hold of the prisoner, and that they should not have him unless by force of arms. Ephraim Mahurin thereupon dismounted, and walking round to where Prouty stood, cocked a double barrelled gun and levelled it at his breast, upon which I called out to Prouty to stand back and let go the prisoner, as that was force enough; Blanchard then mounted on Mahurin's horse, and so they went off, Mahurin walking among them. We saw at a distance at this time, six or seven armed men, who appeared to be a reinforcement for the same object. They all made off in the direction to Vermont, and shortly afterwards we heard shouting and cheering. About a quarter of an hour afterwards we went to Mr. Rea's house to make a statement upon oath, before him, of the occurrences that had taken place; when we had just closed our deposition, and were leaving his house for our respective homes, we saw Ephraim C. Aldrich and Miles Hurlbert drawn up in the middle of the road that leads from Mr. Rea's house to the province line, about fifty rods from the house, mounted on horses, and armed with a sword and pistols, with belts of white leather across their breasts. I went up to Aldrich: he was an old acquaintance of mine, and I asked him what he meant, when he said, "Damn you we will let you know what it means." I told him he was going too fast, when he replied, "Flanders, have I not always used you well?" to which I said, that I knew nothing to the contrary, and had I not used him well likewise. He said, yes, I had, until I had stolen one of their citizens, meaning Blanchard. I told him he lied; I had not stole one of their citizens. What made me angry and speak to him in this manner was, that a short time before he had been a staunch Canadian, and had given me some trouble in procuring the forwarding of a petition for protection for the inhabitants of the Indian stream settlement to our Government. By this time Mr. Rea, with the other persons who had been making their depositions, came up, not one of them with arms of any kind. Mr. Rea went up to Hurlbert and asked him what he meant by stopping people in the King's highway. Hurlbert said he would do what he had a mind to. Mr. Rea desired him to take himself off to the other side of the line, they did not want any thing of him there. He said he would be damned if he would go for him, and that he would go when he had a mind. What's that you say? said Mr. Rea, walking up to him, when Hurlbert said, "advance one step further and I'll blow you through" Mr. Rea then stood still; Hurlbert presenting his pistol to Mr. Rea, who told Mr. Young, a peace-officer, to take charge of that man, and take him prisoner. Mr. Young took hold of the bridle, when Hurlbert called out to him, "God damn you, let go my bridle." The next thing I saw was Aldrich drawing his sword, with which he struck Mr. Rea. He fell partly to the ground, and had hardly recovered himself when Aldrich

struck him again with his sword on the head, when he fell a second time. Aldrich at this moment whirled his horse round, calling out, "damn him shoot him down," and Hurlbart levelled his pistol towards where Mr. Rea and Young were standing. It went off, and I saw Young fall and get up again. I turned my horse at this moment, and saw a number of armed men coming along the road from the direction towards the line, some of them firing their guns towards us as they advanced. I then made off in the opposite direction: I think that there may have been from forty to fifty men. The balls from the guns of those who fired as they advanced towards us struck the ground near our position, and threw up the dust of the road. The only reason I have ever understood for the New Hampshire people treating Mr Rea in this manner, was from the circumstance of his exercising jurisdiction over the inhabitants of the Indian stream settlement in Drayton, and that if he had not interfered the Government of Lower Canada would, without opposition, have let the state of New Hampshire claim that settlement for their own.

(Signed)

ZEBULON FLANDERS.

Sworn before us at the township of Hereford, the 24th day of December, 1835.

(Signed)

EDWARD SHORT.

BENJAMIN POMROY.

J. McKENZIE.

X.

Aggression and  
violation of terri-  
tory by citizens of  
New Hampshire.

## Inclosure 10 in No. 1.

*Deposition of A. J. McKinnon.**Province of Lower Canada, District of St. Francis.*

I, Alexander James McKinnon, of the town of Canaan, in the State of Vermont, one of the United States of America, tailor, being duly sworn, do depose and say, that on the 22nd day of October last, between the hours of four and five o'clock in the afternoon, I was at the store of Messrs. Parmely and Joy, at the town of Canaan aforesaid; there were at the time, a great number of armed men there, among them one Ephraim Aldrich, who having asked for and obtained a sword, stated that he wanted four volunteers to go over the line into Hereford, to make prisoners of, and carry away, Alexander Rea, Esq. Zebulon Flanders, Zacheus Clough, and John H. Tyler; he stated that they would be well paid it as Josiah Parmeley had offered five dollars and as much liquor as those who would engage in the undertaking, would drink. That Nehemiah Joy had promised to give ten dollars, Archelaus Cummings five, I had promised ten dollars, Mr. Smith of Colebrook, (five dollars for the apprehension of Tyler,) Joy and Parmeley were present at the time when Aldrich said said this, and I think they must have heard him, they did not contradict him; I heard Arch. Cumming and Wm. Smith offer the former ten dollars for Mr. Rea, the latter five dollars for Tyler. There was some difficulty at first in procuring persons to go on the expedition with Aldrich, but ultimately a party of sixty or seventy persons, none of whom I knew to be inhabitants of the State of Vermont, they were principally inhabitants of New Hampshire; they had two waggons with them, one with amunition (ball cartridges,) and the other full of people; Captain James Mooney, Ephraim Aldrich, and Miles Hurlburt were of the party. I understood afterwards that Hurlburt had borrowed a horseman's pistol from Mr. Jewitt, a saddler in Colebrook, in New Hampshire, Mooney and Hurlbut are inhabitants of New Hampshire, Aldrich of the Indian Sream, in the township of Drayton. This Captain Mooney, I understand, holds a commission as captain of Militia, Stewartstown, in Coos county, in the State of New Hampshire. Between one and two hours after this party had left Canaan, the baggage waggon returned with Mr. Rea, under the custody of Aldrich and two others of the party; Mr. Rea was at this time covered with blood, and on arriving about fifty yards from the store, those who guarded Mr. Rea in the waggon shouted "hurra for Jackson, we have got the old rascal." They drew up the waggon at the corner of the store, Aldrich jumped out of the waggon and ordered Mr. Rea to do so likewise, Aldrich placed Mr. Rea on his right and held his sword on his left arm, commanded Mr. Rea to go into the store, placed himself by the side of the door, and carried his sword compelled him to walk up to the upper end of the store and turn round and face the company, in an insulting tone of command; when he had done this he turned to Joy and observed, now Joy, we have got the old rascal, "bring on your rum," Joy told him to be quiet, he had had enough. I heard Mr. Rea apply to Mr. Hemar Nichols, a magistrate of Vermont, for protection, who was then sitting on the store. I do not know what reply Mr. Nichols made to Mr. Rea, but Aldrich immediately went up to Mr. Rea and said it was time to move on, he had no time to stay any longer, and upon Mr. Rea refusing to go unless he was forced, said then he would be forced pretty quickly; Mr. Rea then demanded him to shew his precept or warrant, if he had any, upon which Aldrich said he would shew him his precept pretty quickly when he got him to Colbrook, in New Hampshire, and that if he required to be dragged he should be dragged, and therefore seized Mr. Rea and called for the assistance of some one alongside of him. Mr. Rea laid hold of the counter, and again claimed the protection of the State of Vermont, whilst they were still dragging him to the door, thereupon Josiah Parmely ordered Aldrich and the other to desist and requested Mr. Rea to accompany him into the adjoining room, I assisted in dressing Mr. Rea's wound, it was a very bad one, about an inch and a half in long, and half an inch in depth; the wound appeared to have been inflicted by a sword,



X.  
 Aggression and  
 violation of ter-  
 ritory by citizens of  
 New Hampshire.

the sword which Aldrich carried was stained with blood. I afterwards accompanied Mr. Rea to his home, and there saw Mr. Bernard Young, of Hereford, lying in Mr. Rea's house dangerously ill, and badly wounded.

The reason for my going to the store of Palmely and Joy was, that my wife, who was living in the neighbourhood, came to me in a state of great alarm, and stated that there was an army of men carrying swords, pistols and guns, and firing them off that they had been over the lines to Hereford, and rescued one Blanchard, and intended going back to take Mr. Rea, that they were drunk, and still continued drinking outside the store, Mr. Joy was furnishing them with spirits, the only reason to which I can attribute the excitement against Mr. Rea is, because he exercised jurisdiction as a magistrate over the inhabitants of Indian stream, in the township of Drayton, and because he had some little difficulty with Parmely in regard to trespassing of cattle and a law suit in which the same individual was interested. Aldrich stated, in my presence, to Mr. Rea, that he intended to take him to Lancaster, in the state of New Hampshire, and that, by God, he should be there before the morning.

A few minutes before Aldrich left Canaan he was asked by some person where he was going, to which he answered, that he was going over the line to shed blood before his return.

(Signed)

A. J. McKINNON.

Sworn before us, at Hereford, this 22nd day of December, 1835.

(Signed)

EDWARD SHORT.

BENJAMIN POMROY.

J. McKENZIE.

Inclosure 11 in No. 1.

*Deposition of Paschal G. Blood.*

*Province of Lower Canada, District of St. Francis.*

I, Paschal G. Blood, of the township of Hereford, in the district of St. Francis, farmer, being duly sworn, do depose and say, That on or about the 22nd day of October last I was called upon by Zaccheus Clough to come and assist in taking Richard I. Blanchard before Mr. Rea, a Magistrate for the district of St. Francis, residing in Hereford. In compliance with his request I followed, and near Mr. Purley's house I found that Clough and his party had been stopped by a party of armed men, about nine in number, viz., Miles Hurlburt, Ephraim H. Mahurin, Horatio Tuttle, James M. Hillyard, Thomas B. Blodget, Joseph P. Wiswell, John Milton Harvey, Thomas Piper, and Samuel Weeks, junr. I went up to the party and asked what they meant by stopping Clough and his party; to which they answered that they intended taking Blanchard, and would have followed to Sherbrooke gaol if it had been necessary. They ordered Clough to fall in, as it was their intention to take him prisoner to New Hampshire; and, alluding to Mr. Rea, said they intended taking old Pumplefoot with them also. Thomas B. Blodget, on the refusal of Clough to go with them, stepped forward, cocked his gun and levelled it at Clough, and told him if he did not step into the ranks he would blow him through. I interfered, and told Blodget to fire at me if he choose, but that he or his party should not take Clough off with them. By this time Blanchard had been rescued from the custody of Clough and Flanders, and was mounted on a horse in the company of the armed rabble: and they then made off with him. We then proceeded on to Mr. Rea's, to make a statement of what had occurred. After closing my deposition I was the first to leave Mr. Rea's house, and saw Ephraim C. Aldrich and Miles Hurlburt at a short distance from Mr. Rea's house, about forty or fifty rods. They remained stationary in the road; Aldrich with a sword by his side, and Hurlburt armed with a horseman's pistol. I rode up to them, and shook hands with them both, and thought I should have persuaded them to go back with me. Beecher came up first after me, and then Flanders; and the latter addressing himself to Aldrich, said this is a little too much to bear. Aldrich replied by Jesus Christ I'll spill your blood before I quit. I saw some persons at that time coming from Mr. Rea's house. Mr. Rea, I thought, was one of them, and I proceeded on past Aldrich and Hurlburt towards the line; and when I had ridden about thirty rods, I met two other men on horseback, going towards Aldrich and Hurlburt; they were trotting very fast. When I turned round the corner of the road at the top of the hill the road was full of armed men, to the number of from sixty to one hundred, some with guns and some with pistols. I saw Captain Mooney among them. They had a waggon with two horses among them, driven by one Jessee Corbit. Among the company I recognized Doctor Enoch Terrill, Robert Terrill, Stephen and Moses Hodge, one Dalton, and Jeremiah Kelly. I then went on to Canaan, in the State of Vermont, to the house of Mr. Cummings, and whilst I was there Aldrich and Corbit passed with Mr. Rea in the baggage waggon, and Aldrich, swinging his sword, cried out as he passed, "We have got the old captain, damn him, with his head bound up." About a week after this I went to the blacksmith's shop, on Mr. Rea's farm, and there met with Mr. Josiah Grout, who, in the course of our conversation, told me that a pistol had been lost, the one that Aldrich had snapped, and then thrown at Mr. Rea, as it did not go off. Grant and I went up, and where I was told that Mr. Rea had gone over the bars of the fence, and where Aldrich had fired at him. I found,

after a slight search, the pistol with the percussion cap, snapped and broken, but the charge was still in the pistol. I gave the pistol to Mr. Grout, and I now believe that it is in the possession of Mr. Rea, as he told me so.

(Signed)

PASCHAL G. BLOOD.

Sworn before us at Hereford, this 23d day of December, 1835.

(Signed)

EDWD. SHORT.

BENJAMIN POMROY.

J. McKENZIE.

X.

Aggression and  
violation of terri-  
tory by citizens of  
New Hampshire.

Inclosure 12 in No. 1.

*Deposition of William Pope.**Province of Lower Canada, District of St. Francis.*

I, William Pope, of the township of Hereford, in the district of St. Francis, farmer, being duly sworn, do depose and say, That I was an inhabitant of India stream settlement, in the township of Drayton, in the said district of St. Francis, in the month of July last, and, seeing an assemblage of persons at the house of a Mr. Fletcher, I went up to find out for what purpose they had assembled, and was told that Colonel White of the militia of the State of New Hampshire had sent a message to the inhabitants of the said India stream settlement, that he would be there that day to find out what persons would be willing to recognize the jurisdiction of the State of New Hampshire over them. I found Colonel White there at the time. He was in a room addressing the people; and, upon some of the company asking him by what authority he had come, he stated that he had left his documents with a Colonel Young, but that he had come on the part of the State of New Hampshire, to see whether they would acknowledge jurisdiction, prior to the coming out of the militia, which had been warned out, by orders from the Governor of the state of New Hampshire, and were to march to the Indian stream settlement the next day, the Governor having told him that he must and would have jurisdiction over the India stream settlement, and that if he could not get it in any other way, he should do so with powder and ball. Some of the inhabitants, viz., Clark, Haines, Timothy Haines, and one or two others consented to submit, Clark Haines stating that he did so because he was obliged, they being too powerful for him. There were about thirty persons in the room; and after a little while Colonel White requested those who would submit, to range on one side of the room, and those who would not, to range on the other. At first but three or four submitted, but afterwards the greater number did so, saying that they were compelled to do so, but that if they could have obtained help from the province they would not have submitted, and would not submit if they could yet obtain assistance from the province. I understood that my name had been put down as one of those that had submitted if they did so: it was without my consent, and I told them that if things were carried on in that way I should leave the settlement, and go further into the province, and have done so in consequence. Colonel White went into another room in the house after these proceedings with a number of others, and there appointed Richard J. Blanchard, of the India stream settlement, a deputy sheriff for the state of New Hampshire. Colonel White is the high sheriff for that state; and brought, as he said, two or three precepts with him; and I understood that he had served one of them on Clarke Haine, one of the inhabitants of Indian stream.

(Signed)

WILLIAM POPE.

Sworn before us at Hereford, this 24th day of December, 1835.

(Signed)

EDWARD SHORT.

BENJ. POMROY.

J. McKENZIE.

Inclosure 13 in No. 1.

*Deposition of Jonathan C. L. Knight.**Province of Lower Canada, District of Saint Francis.*

I, Jonathan C. L. Knight, late of the Indian stream settlement, in the township of Drayton, now of the township of Barford, in the district of Saint Francis, farmer being duly sworn, do depose and say, That some time in the month of June last, I lodged a complaint with Alexander Rea, Esq. of the township of Hereford, a justice of the peace, against one Sampson Thurston and Luther Parker, both of the said Indian stream settlement, the former for having made an assault upon me on the 16th of the said month, with a butcher knife, threatening to kill me, and the latter for having furnished him with fire arms for the same purpose, and thereupon obtained a warrant from the said Alexander Rea for their apprehension; Luther Parker was afterwards taken in virtue of the said warrant, but Thurston made his escape, Parker not having procured bail was committed to gaol and afterwards discharged upon giving bail for his appearance at the then next general sessions of the peace for the district of St. Francis. He appeared at the session, an indictment was preferred against him,



X.

Aggression and  
violation of terri-  
tory by citizens of  
New Hampshire.

but the witnesses not being in attendance the grand jury did not find the bill. After this, having been informed that threats had been made by the people of New Hampshire, and an attempt having been made to arrest me by a party of armed men, I considered that I should not be secure in the settlement, and, consequently, left my house and farm, and other property, and went to the township of Barford to reside; I should be afraid to return to the Indian stream settlement, unless some protection was afforded me by the British Government; I estimate the property which I left at five hundred dollars. The armed party who attempted to arrest me were part of a armed militia of New Hampshire, stationed at Indian stream, under the command, as I understood of Captain James Mooney. The crime alleged for which they wished to arrest me was, that I had assisted in rescuing John H. Tyler, and for having resisted the authorities of the State of New Hampshire. I saw Amasa Huggins and Timothy Huggins arrested and carried off by the same party who attempted to arrest me; and I saw also the house of Emer Appleby surrounded by the New Hampshire militia, and I understand that Emer Appleby and his son Benjamin, have been carried off by them to Lancaster gaol, and that for having resisted the authorities of the State of New Hampshire. About half an hour after they had carried off the Appleby's, I went to their house and saw that they had smashed the door and window, tore the bed clothes, and scattered them and the clothes out of a chest of drawers all about the room, and had also torn up part of the floor. They had also abused the females of the family, throwing them on the bed and floor, at least as they told me. They had broken the comb out of Mrs. Appleby's head, and jammed her fingers in such a manner that they were quite blue; Appleby's house is situated beyond the place where the New Hampshire militia are stationed, and any one wishing to go there, must pass their barrack. I cannot sign my name not knowing how to write.

his  
JONATHAN ✕ C. L. KNIGHT.  
mark

Sworn before us at Compton this 30th day of December, 1835.

(Signed) EDWARD SHORT.  
BENJAMIN POMROY.  
J. McKENZIE.

Inclosure 14 in No. 1.

*Deposition of John Hughs.*

*Province of Lower Canada, District of St. Francis.*

I, John Hughs, of the town of Canaan, in the state of Vermont, one of the United States of America, farmer, being duly sworn, do depose and say, that I have resided about fifty-two years in Canaan, and in its vicinity, and well acquainted with the county on both sides the line forty-five. From my knowledge of the country round about I have been employed by surveying parties in laying out townships on several occasions, and I am acquainted with the different streams which fall into the River Connecticut. I know Hall's stream, Leech's stream, Perry's stream, and the Indian stream; Hall's, Leech's, and Perry's stream took their names from the first white persons who hunted up those streams; and Indian stream, from the circumstances of a white man having been robbed of his furs there by two Indians, from the St. Francis settlement. I have known those streams called by the same names for fifty years or more; I know that the Connecticut River, into which these streams fall, has always been called by that name. I accompanied Dr. Tiarks and Mr. Carlisle some twelve or thirteen years ago, up the River Connecticut, and traced its course through lake Connecticut and the middle lake, up to a third lake, about a mile in length, known as the little pond at the "head of the Connecticut River;" we proceeded further on, along the course of a small brook to its head, which had its source at about half a mile from the little pond, and we could discover no other waters that fall into the little pond or the Connecticut River in that direction. When we had got to the source of the Connecticut, and could find no other waters, Dr. Tiarks said that we might now return, as his business had finished. He said that he had been ordered by Judge Chipman one of the British commissioners at Nova Scotia, to ascend the main branch of the Connecticut River to the last drop of running water, and that he had now done so. There is an old cedar post at the south-east corner of the township of Hereford, on the back of the river Connecticut; it was old when I first saw it, which was in the year 1782; I know that it was that year from the circumstance of my carrying arms, and that peace was proclaimed the following year. It was in the line, commonly called, at that time, the "Canada Line," and by some, Collin's Line. It was marked and blazed on three sides; the Canada Line was well marked in those days, and I knew it from Connecticut River to the lake Memphranagog. In 1785, I was called on by surveyor-general Whitelaw, of the state of Vermont, to assist in surveying certain townships, three of them on the line between Vermont and Canada, and three of them back. If I live until the 10th day of May next I shall be seventy-four years of age.

(Signed) JOHN HUGHS.

Sworn before us at Hereford, this 24th day of December, 1835.

(Signed) EDWARD SHORT.  
BENJAMIN POMROY.  
J. McKENZIE.

## Inclosure 15 in No. 1.

*Deposition of Reuben Sawyer.**Province of Lower Canada, District of Saint Francis.*

I, Reuben Sawyer, late of the Indian stream settlement, in the township of Drayton, and now of the township of Barnston, in the district of Saint Francis, being duly sworn do depose and say, on the 8th day of July last, I left the Indian stream settlement where I had resided for upwards of fifteen years; when I first went there, I settled on a lot of land, which had been granted me by a land company claiming under King Philip, an Indian, with which company I understand that Governor Badger, of New Hampshire, is connected; the company was known to the settlers, by the name of the Eastman Company, and was so called by us because a person of the name of Jonathan Eastman, jun. a shareholder was the agent of the company; the names of some of these shareholders were, Stephen Ambrose, of Concord, Bradbury Lily, of Nottingham, a Mr. Cogswell, of Gilman Town, of the State of New Hampshire, Archilaus Cummings, now of Canaan in Vermont, and Eleazar Clark, of the township of Hatley, who is since dead, they claimed two hundred thousand acres of land on the north-west side of the Connecticut River, which included the whole of the Indian stream settlement. At this time the Indian stream settlement was not considered to belong to the State of New Hampshire, it was not until four years afterwards, and then it was resolved by the Legislature of New Hampshire, on an application by the said company for a grant of the land claimed by them, that the settlement should be considered as forming a part of the county of Coos. Soon after, summonses were served upon different individuals by the authorities of New Hampshire; but no attempts were even made to enforce the jurisdiction of that State, until about a year ago last June or July, the Inhabitants of Indian stream were permitted to govern themselves. At first the inhabitants used to meet once a year to pass resolves and appoint officers, but the population having considerably increased, it was found necessary to establish a more regular form of Government; and in 1832, at a general meeting of the inhabitants, a constitution was framed and adopted, which was to cease to exist as soon as it should be ascertained to which Government we rightly belonged, namely Great Britain or the United States. Luther Parker was one of the committee who assisted in drafting this constitution, and was elected to the council under it, and took an oath to preserve the constitution inviolate; he, however, having lost the confidence of the people, was not latterly elected to any office under our constitution, and became the declared enemy of the constitution, and said he would do all in his power to injure the inhabitants, and the constitution, and declared that he did not care for the laws of the province, and defied them. During the course of the last spring, the said Parker, got up a petition to the Government of New Hampshire for protection, setting forth that the inhabitants of Indian stream were in danger of their lives and property, and procured the signatures of five or six individuals of the Indian stream to it; namely Ebenezer Fletcher, Sampson Thurston, John Carr, Welman Rowell, Asa Parker, his brother and himself, and afterwards, as I understood, procured the Signatures of a number of persons in Stuartstown and Colbrooke in the same State. To this petition the inhabitants of Indian Stream got up a remonstrance, setting forth that they did not wish for the protection of the State of New Hampshire, as they considered themselves belonging to the Government of Lower Canada, and wished to retain their own constitution, until it should be regularly decided to which of the two Governments, of Lower Canada, or New Hampshire, they belonged; which was signed by the heads of upwards of sixty families, legal voters, out of the whole number of families, which may have been about seventy. This remonstrance was forwarded to Governor Badger, by a special messenger, who brought back for answer, that the remonstrance should be taken into consideration, and that nothing would be done on the said petition, until after the sitting of the Legislature. Some time after this, I left the settlement in consequence of threats from some of the inhabitants of Indian stream, and some of the people of New Hampshire, to cause me to be arrested by the authorities of New Hampshire, for my resistance to the jurisdiction of the said State, and on account of my having been instrumental in making certain representations to the British Government, and in consequence also of an attempt, by one Smith, a deputy sheriff of the county of Coos, to arrest me. Luther Parker was one of the inhabitants of Indian stream, who threatened me, and I am well persuaded that there is no security in the settlement for any person who has the least attachment for the British Government. When I left, my crops were growing in the fields, and some of my property has been made away with. I estimate the property which I left at the settlement to be worth seven hundred dollars, and there is no one there to take care of it. I should be afraid to return, and in fact will not return unless some protection is afforded us by the British Government. When I first went to the settlement, the said Jonathan Eastman, jun., promised me a warranty deed for a hundred acres of land, as soon as I should have cleared five acres and built a log house, and I was to get fifty acres more for fifty days labour on the road; after performing which, I applied for my deed, which the said Eastman declined giving, stating, that he was not prepared. I have had some correspondence with the said Eastman in relation to it, and the letter which I now produce was written by the said Eastman to me. The inhabitants of Indian stream, had never been, up to the time I left the settlement, classed as voters, and

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Aggression and  
violation of territory  
by citizens of  
New Hampshire.



X.

Aggression and  
violation of terri-  
tory by citizens of  
New Hampshire.

never had voted for representatives for the State of New Hampshire. Whilst at Indian stream, I was elected and acted as sheriff in the settlement.

(Signed)

REUBEN SAWYER.

Sworn before us at Compton this 30th day of December, 1835.

(Signed)

EDWARD SHORT.

BENJAMIN POMROY.

J. McKENZIE, J.P.

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 Inclosure 16 in No. 1.
*Deposition of Marcus Beacher.**Province of Lower Canada, District of St. Francis.*

I, Marchus Beacher, of the township of Hereford, farmer, being duly sworn, do depose and say, that on or about the twenty-second day of October last past, Zacheus Clough, of the township of Hereford, called at my house in Hereford, and requested me and a man of the name of Alanson Cummings of the Indian stream settlement, who was at my house at the time, to assist him to convey before Alexander Rea, Esq., a magistrate at Hereford, Richard J. Blanchard, of Indian stream settlement, in the township of Drayton, whom he, Clough, had arrested, in virtue of a warrant. The said Cummings and myself accordingly accompanied said Clough to the house of one Zebulon Flanders, of Hereford, where we met said Richard J. Blanchard in the custody of the said Zebulon Flanders, Mr. Prouty, Bernard Young, John Parker, Benjamin Appleby, and John H. Tyler, the two latter belonging to the Indian stream settlement, the others were all inhabitants of Hereford. We thence proceeded, accompanied by the aforesaid persons, to conduct the said Blanchard as far as the house of Mr. Paschal G. Blood, of Hereford, on the road to Mr. Rea's, where the said Clough required the said Blood to give his assistance also, stating, as his reason for so strengthening his party, that he had been informed that attempts would be made to rescue the prisoner Blanchard, by a party from New Hampshire; we thence proceeded to a place a few rods west of the house of one Moses Perly, in Hereford, where we met a party of men armed with swords, pistols, and guns, consisting of the following persons, viz. Ephraim H. Mahurin, of Columbia, in the county of Coos, in the state of New Hampshire; postmaster, and, as I believe, Magistrate in the said county, Horatio Tuttle, blacksmith, John M. Harvey, deputy sheriff, James M. Hillyard, joiner, and Samuel Weeks, jun., farmer, all of the town of Colbrook, in the county of Coos, in the State of New Hampshire, Thomas Piper and Thomas B. Blodget, both farmers, of Stewartstown, in the same State and county, and Joseph P. Wiswell and Miles Hurlburt, of Clerksville, in the same State, farmers. James M. Hillyard came forward and demanded to be informed whether we had Blanchard in custody, and being informed by Clough or some other person that he was in our custody, requested us to give him up to them, which being refused, he stated that they should take him by force, thereupon the said Mahurin came forward and said, that they should take him and us also; he appeared to direct their proceedings, and ordered us to fall in, and that if we did not, they would shoot us, and primed and cocked their arms; after a little time, said Mahurin got off his horse, and ordered Blanchard to get on; they then made off towards Vermont, Mahurin walking among them, and Blanchard on Mahurin's horse. We thence proceeded towards Mr. Rea's, and after we had gone about half a mile, another party of armed men, consisting of seven, came in view; they were attempting to join the party which had rescued Blanchard, and appeared to be engaged in the same design and aware that Blanchard had been rescued; from thence we proceeded to the house of Mr. Rae, (except Mr. Prouty, who returned home) without molestation, and made before Mr. Rae, a statement, under oath, of all that had taken place. After having signed our deposition, Mr. Blood and myself left Mr. Rea's house on horseback to go home; between fifty and sixty rods from Mr. Rea's house we met Miles Hurlburt of Clerksville, in New Hampshire, and Ephraim C. Aldrich, of the Indian stream settlement, in the township of Drayton, the former armed with a horseman's pistol and a pocket pistol, and the latter with a sword and pistols, who commanded us to stand. A few words passed between us, we asking them what they meant by stopping us, they saying they should let us know. In a few minutes after this Mr. Rea, Mr. Young, the Applebys, Mr. Clough and the others, who had been at Mr. Rea's came up. Hurlburt then presented his pistol at Mr. Rea, who was advancing towards him, and said, if you advance another step "I'll blow you through." Mr. Rea asked them what was their business, to which they replied, "we will let you know, you damned rascal." Mr. Rea continued to advance, when Aldrich drew his sword, and said, "stand, God damn you, or I'll split your head open." Mr. Rea, then ordered Mr. Young, to take charge of Aldrich, and on Young's attempting to do so, Aldrich struck him down with a sword. Mr. Rea upon this went to the assistance of Young, and Aldrich cut Mr. Rea down with his sword by a blow on the head, at the same instant, Hurlburt, distant at about four or five yards, levelled his pistol at Mr. Rea and fired; but owing to the unsteadiness of his hand from intoxication, the shot missed Mr. Rea and hit Mr. Young, whilst recovering from the blow he had received from Aldrich. Upon this the persons who were with Mr. Rea, being unarmed, picked up stones, with which they succeeded in driving Aldrich and Hurlburt to the distance of four or five rods; thereupon Aldrich and Hurlburt were reinforced by a party of armed men, to the number of twenty or thirty, who appeared to come from the mill-yard, on Mr. Rea's farm, the greater number of them in a state of intoxication, and who fired several shots as they came up. Among them I recognized Moses Hodge, Stephen Hodge,

Jeremiah Kelly, Robert Terril, Doctor Terril, Mr. Small, William Owen, David Heath, Henry Pickard, Joshua Tirril, Lancaster Corbit, and Caleb Dalton, all inhabitants of the State of New Hampshire; and Jeremiah Aldrich, and Asa Parker, of Indian stream settlement, in the township of Drayton; hereupon, the persons with Mr. Rea, dispersed in different directions except myself, and Mr. John Parker; Mr. Rea went through the bars of his pasture field, and made towards the woods. Whilst Mr. Rea was at the bars, I saw Aldrich snap his pistol at him, and three other guns discharged at him at the same time. Aldrich, Doctor Terril, and three or four others pursued Mr. Rea to the bushes, shouting, "Shoot him down." "Blow him through." "God damn him," and other similar expressions. I then lost sight of him; but in a few minutes after, I perceived them dragging Mr. Rea from the woods, his head and shoulder covered with blood; whilst Mr. Rea was in the woods, James Mooney, a captain in the New Hampshire militia, with thirty or forty more armed men, came running up to the spot, having a waggon drawn by two horses with them, driven by Jesse Corbit. When those who had captured Mr. Rea, had dragged him to the road, he was bundled into the waggon, and driven off by Corbit, accompanied by Aldrich, and several others on the road towards Vermont, shouting out, "Hurra for Jackson, we have got the damned old he one." Captain Mooney then asked me, what had become of Clough and Flanders, to which, I replied, I do not know, the last that I saw of them, they were on the run, and your blood hounds after them. Mooney and his party then went off in the direction towards Vermont. This outrage took place on the King's highway, where it passes through Mr. Rea's farm, within a short distance of his house. The only cause which I have ever heard assigned, for the excitement of the people of New Hampshire against Mr. Rea is, that they looked upon him as the sole cause for the opposition offered by the inhabitants of the Indian stream settlement, to the jurisdiction of New Hampshire, and that had it not been for his interference, in assuring them of the protection of the Government of Lower Canada, they would have quietly submitted to the laws and State of New Hampshire.

It was about two o'clock in the afternoon when Blanchard was rescued, and about five o'clock when Mr. Rea was carried off.

After the affray was over, I went to Mr. Rea's house, where I saw Mr. Young, he shewed me the wound he had received; the ball had entered his right thigh and passed out through his testicles. I do not think he will ever perfectly recover, he is not yet able to do any labour, he is a peace officer. At the time Mr. Rea went out to meet Aldrich and Hurlburt, he had no arms with him, not even the walking stick which he usually carries, being lame.

I do further depose and say, that on the thirteenth day of November last, being on the way to a farm owned by me, in the Indian stream settlement, in the township of Drayton, for the purpose of procuring some of my own goods and chattels which had been left on the said farm, and also of assisting to move Mrs. White, who wished to join her husband in the township of Eaton, in company with a person of the name of Whitman, of the said township of Eaton, in the district of St. Francis, we were stopped by three men armed with guns, swords, and pistols; two of them I ascertained to be, Robert Tirril and William Butler, both of Stewartstown, in the State of New Hampshire; they hailed us and ordered us to stand, or they would blow us through; they then took us prisoners, and conducted us to a house, owned or occupied by one Luther Parker, of Indian stream settlement, and situated on a main road, nearly half a mile distant from where they took us prisoners; whilst conducting us to the aforesaid house, we received a great deal of abuse from the said Robert Terril, who threatened to shoot us himself, and ordered the others to fire on us several times. When we arrived at the said house, we found Captain James Mooney there, and forty or fifty others, armed with guns, swords, bayonets, and pistols. We were kept prisoners until about three o'clock in the afternoon of the following day, when we received our discharge, which was written in our presence, by one Ira Young, of Colbrook, in New Hampshire, and signed by him as Colonel of the twenty-fourth regiment of New Hampshire militia. During our detention we saw several persons arriving at and departing from the house of the said Parker, for the purpose, as we understood, of making prisoners of Emor Appleby and his sons, who resided at the Indian stream settlement, in Drayton. We demanded to know by what authority, and for what cause we were detained by them, and received for answer, it was because they suspected that we intended to give information to the Applebys of their intention to make them prisoners, and to prevent the execution of such a design. On the fourteenth day of November last, the said Emor Appleby and Benjamin Appleby, his son, were brought in custody to the house of the said Luther Parker, by a party of men apparently under the command of General Lewis Loomis, of Colbrook, in the State of New Hampshire, and were carried away from thence, as we understood, to Clarksville, in the said state of New Hampshire, and, as I understand, have been confined in Lancaster gaol, to stand their trial for raising an insurrection against the State of New Hampshire.

And I further depose and say that, on Sunday the fifteenth day of November last past, between the hours of four and five o'clock in the afternoon, accompanied by Mrs. Ann White, Polly Judd, and the said William Whitman; and having with me a team laden with some goods and clothing belonging to Mrs. Ann White and myself, I was returning to the township of Hereford, from the said Indian stream settlement, and, on arriving opposite to the house of the said Luther Parker, I was ordered by a man, armed with a musket and bayonet, to stand. This man said to me, you may think I am to blame for stopping you,

X.

Aggression and violation of territory by citizens of New Hampshire.



X.  
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 Aggression and  
 violation of terri-  
 tory by citizens of  
 New Hampshire.

but I am only obeying the captain's orders. During this conversation Captain James Mooney came out of the said Luther Parker's house, and wished to see what I had got in the team, and ordered Mrs. White and Polly Judd to get off a small trunk upon which they were sitting, to let him see what the said trunk contained; and, upon Mrs. White's refusing, he said that if she did not comply she must go back from whence she came, as his orders from General Low were very strict, and required him not to suffer any person who was in debt to remove his goods from the Indian stream settlement until his debts were settled. Mrs. White and Polly Judd then got off the trunk, and the said Captain Mooney examined the contents of the said trunk, and the loading on the said sled, and then permitted us to go on without further hindrance. This took place on the public road in the Indian stream settlement.

(Signed) MARCUS BEACHER.  
 Sworn before us at the township of Hereford, this 23d day of December, 1835.  
 (Signed) EDWARD SHORT.  
 BENJAMIN POMROY.  
 J. McKENZIE.

Copy.

To James Mooney, Captain of 6th Col. infantry, commanding a guard stationed at Indian stream.

Marcus Beacher and William Whitman having been taken by your guard at seven o'clock P.M. on the 13th November, 1835, and detained by my order until this day, you will release said Beacher and Whitman, and permit them to depart.

(Signed) IRA YOUNG,  
 Colonel 24th regt. New Hampshire Militia.

November 14, 1835.

Inclosure 17 in No. 1.

*Deposition of Nathan Judd.*

*Province of Lower Canada, District of St. Francis.*

I, Nathan Judd, of the Indian stream settlement, in the township of Drayton, farmer, being duly sworn, do depose and say, That on the 25th instant, I was arrested by one Richard J. Blanchard, of the said Indian stream settlement, acting as deputy sheriff for the county of Coos, in the state of New Hampshire, who told me he had a warrant against me for having rebelled, as he stated, against the state of New Hampshire. He was accompanied into my house in the Indian stream settlement, between the Indian stream and Hall's stream, situated at or near the mouth of the Indian stream, by Captain James Mooney, and several other persons, who at the same time surrounded the house; amongst whom were Ephraim C. Aldrich and Luther Parker, both of the Indian stream settlement. After my arrest, which was late in the evening, I was taken by the aforesaid persons to a house situated in the Indian stream, where there is stationed a guard of the New Hampshire militia, under the command of the said Captain Mooney. The next day I was conveyed by Blanchard, Luther Parker, and another person of the name of Joseph Morrill, one of the said guard, to Stuartstown, in the state of New Hampshire, and taken before Mr. Drew, a justice of the peace for the county of Coos, in the said state, by whom I was discharged on giving bail to the amount of two hundred dollars, to stand my trial at Lancaster in the said state, in the month of May next, and for my good behaviour in the mean time. The only cause to which I can ascribe my being arrested is, that I declined submitting to the jurisdiction of the State of New Hampshire. Another person of the name of Abner Hyland, also of the India stream settlement, was arrested at the same time that I was, on the same complaint, and by the same officer, and conveyed to Stuartstown. He was also discharged on giving the same bail as I was obliged to give.

(Signed) NATHAN JUDD.  
 Sworn before us at Indian stream settlement, this 28th day of December, 1835.  
 (Signed) EDWARD SHORT.  
 BENJAMIN POMROY.  
 J. McKENZIE.

Inclosure 18 in No 1.

*Deposition of John H. Tyler.*

*Province of Lower Canada, District of St. Francis.*

I, John H. Tyler, late of the Indian stream settlement, in the township of Drayton, now of the township of Compton, in the said district, farmer, being duly sworn, do depose and say, That about seven years ago I went to reside in the Indian stream settlement. The inhabitants did not know whether they belonged to the state of New Hampshire or to the province. In the month of March of the year 1830 or 1831, a meeting of the inhabitants

took place for the purpose of drafting a constitution, to exist until it was determined to which Government the Indian stream territory belonged. There were at that time about seventy families in the settlement. I know that Luther Parker was one who signed the constitution, and all who did so took an oath to preserve it inviolable, until the constitution should be done away with. Luther Parker was one of the council of the constitution, which was elected annually by the people; said Parker having lost the confidence of the people was not elected to any office; latterly, and after that time did all in his power to injure the inhabitants and destroy our constitution. He got up a petition for protection to the State of New Hampshire, to which he obtained at most seven or eight signatures in the settlement; and afterwards, as I understood, obtained signatures of several inhabitants of Colbrook and Stuartstown, in the State of New Hampshire. The inhabitants of Indian stream drew up a remonstrance to that state, to the effect that they did not want their protection, which was signed by sixty-four out of about seventy legal voters in the settlement. During the last summer a petition for protection against the encroachments of the State of New Hampshire was sent by the inhabitants of the Indian stream to the Government of Lower Canada, which was signed by almost all of the inhabitants. Some time, in the month of October last, William Smith, Milton Harvey, and Richard J. Blanchard, the two former citizens of the State of New Hampshire, and the said Blanchard of the Indian stream settlement, came to my house and stated that they had a writ against me for debt, due by me to William Buckminster, proprietor of the store in Canaan, kept by Parmely and Joy. I told them they had the power to take me, and that I would walk rather than be dragged. I had gone with them about a mile after having refused to give bail, as I stated to them I was a British subject, and did not care for their laws, and that if they chose to drag me to gaol they might do so, when we were met by Alanson Cummings, Emer Appleby, Benjamin Appleby, Jonathan Hartnell, Rufus Hartnell, Levi Appleby, Jonathan Knight, and two others, all inhabitants of Indian stream, who rescued me, but without any violence towards the officers, Smith, Harvey, and Blanchard, who were acting as deputy sheriffs for the county of Coos, in the state of New Hampshire, who, after my rescue, made off towards the state of New Hampshire. Three or four days afterwards I proceeded to the house of Alex. Rea, Esq., a Magistrate residing at Hereford; and, having deposed to the above facts, obtained from him a warrant for the apprehension of the said Smith, Harvey, and Blanchard. The warrant was addressed to Zacheus Clough and Zebulon Flanders, of Hereford, who on the morning of the 22nd day of October last accompanied me to the house of the said Richard J. Blanchard, when we, with the assistance of several others which we deemed necessary, on account of an apprehension that a rescue would be made by the people of the State of New Hampshire, had proceeded with, as far as about forty or fifty rods past the house of Moses Perly in Hereford, when we were stopped by nine or ten men armed with guns, pistols, and bayonets, who rescued the prisoner from us with violence and threats, levelling their guns at us. Among this party were Eph. H. Mahurin of the town of Columbia, James M. Hillyard of Colbrook, James P. Wiswell, and Miles Hurlburt of Clarksville, in the State of New Hampshire. Immediately after this we proceeded to the house of Mr. Rea, and made a statement on oath of the facts that had occurred. I saw Mr. Rea go out of the house after we had closed our depositions, which he did in consequence of a cry of "they are coming." I followed him for a short distance and saw Ephraim C. Aldrich and Miles Hurlburt drawn up in the road. I made off over the road fence, and shortly afterwards heard Aldrich cry out, "Shoot him down; God damn him." Immediately after which I heard the report of a gun or pistol. Not any of the party who were with Mr. Rea had any fire-arms, or any weapons of any kind. I afterwards heard the report of six or seven guns, and saw nothing more of the occurrence. Aldrich and Hurlburt appeared to be armed, and were mounted on horseback, at about forty rods from Mr. Rea's house.

(Signed)

JOHN H. TYLER.

Sworn before us at Compton, this 30th day of December, 1835.

(Signed)

EDWARD SHORT.

BENJAMIN POMROY.

J. McKENZIE.

Inclosure 19 in No. 1.

*Deposition of Alanson Cummings.**Province of Lower Canada, of District of St. Francis.*

I, ALANSON CUMMINGS, lately of the Indian stream settlement in the township of Drayton, and now of the township of Compton, Farmer, being duly sworn do depose and say, I went to reside in the township of Drayton, about eleven or twelve years ago; there were then in the settlement about fifty inhabitants; from that time to the year eighteen hundred and thirty, we had no regular form of Government; in which or the following year at a general assembly of the inhabitants of the settlement, a committee was appointed to draft a constitution, by which a legislative power should be vested in the people, and the executive in a council of five, elected by the people annually; with the people also should reside the nomination of all executive officers, and the council, to constitute the supreme court of appeals. This constitution was adopted at a general meeting of the inhabitants, having become necessary in consequence of the increase of population and the situation of the inhabitants on a territory claimed by the United States, and the British Government, and the constitution was to

X.

Aggression and  
violation of terri-  
tory by citizens of  
New Hampshire.



X.

Aggression and  
violation of Terri-  
tory by Citizens of  
New Hampshire.

become nul as soon as it was ascertained to which Government we belonged. The constitution was signed by about fifty-six out of about seventy persons in the settlement qualified to vote, and I think that eight or ten more of the remainder afterwards signed the constitution. All the subscribers took an oath to support the constitution as long as they resided in the settlement. Luther Parker was one of the persons who signed it and was elected one of the members of the council two years successively. The people having lost confidence in him, they ceased to elect him or promote him to any office. This incensed him, and he threatened to do all in his power to injure the inhabitants and destroy the constitution which he said was not worth any thing, because the superior court of the state of New Hampshire had exercised jurisdiction in the settlement; but on being asked why the state of New Hampshire had not taxed the inhabitants of Indian stream, and why they had not allowed us to send a representative, said that the state of New Hampshire had not known that we belonged to them until he told them so. Ever after this, Parker made a habit of attending the meetings of the inhabitants, and the courts, taking minutes of the proceedings and forwarding them as I have understood to the Government of the state of New Hampshire. In the month of March last, I think a petition was got up by Luther Parker, to which he obtained five signatures in the Indian stream settlement, namely Ebenezer Fletcher, Sampson Thurston, John Carr, Asa Parker his Brother, and Wellman Rowell. I afterwards understood that he obtained a number of signatures to it in Stewartstown and Colbrook in New Hampshire; the petition stated that they were apprehensive of danger to their lives and property, and that if protection was not sent them immediately, they would be obliged to fly to some other part of the state of New Hampshire for safety. This petition after it was signed was taken to the Governor of New Hampshire by Asa Parker. It is well known in the settlement that Governor Badger the Governor of the state of New Hampshire, is one of a company who lay claim to an extensive tract of territory in the township of Drayton, under a title said to have been derived from King Philip, an Indian Chief. I know that many persons in the Indian stream settlement obtained a promise to have a deed given them by this company through their agent, a person of the name of Eastman, of one hundred acres of land, each provided they would perform the conditions required, and I believe that several persons have received deeds from this company in consequence.

Shortly after the petition got up by Luther Parker, had been sent to the Government of the state of New Hampshire, setting forth that the statements of the petition got up by Luther Parker were false, and stating that we did not want any interference of the state of New Hampshire, as we did not consider that we belonged to that state, this remonstrance was signed by about sixty four out of the whole of the qualified voters in the settlement which were about seventy five. We sent this remonstrance by John Haines, to the Governor of New Hampshire, who stated to us that he had performed our mission by placing it in the hands of Governor Badger; the Governor Badger directed him to inform the inhabitants of Indian stream settlement that they would not be interfered with by the state of New Hampshire, but that he would lay their remonstrance before the council which was to sit that week, and also lay it before the Legislature in the ensuing month of June as soon as it should meet.

About the end of the month of July, or the beginning of August, the inhabitants of the Indian stream settlement got up a petition to the Governor of the province of Lower Canada for protection, which was signed by sixty four of the inhabitants, in consequence of threats made by the authorities of New Hampshire to invade the territory of Indian stream. This petition was sent to Alexander Rea, Esquire, a justice of the peace for the district of St. Francis, residing at Hereford, and by him forwarded to the Governor of the province. The ensuing week previous to our receiving any answer, Colonel White, high sheriff for the county of Coos, in the state of New Hampshire came over to the Indian stream settlement, and met part of the inhabitants who assembled for that purpose, he said that he had come in for the purpose of finding out whether the inhabitants would submit to the jurisdiction of the state of New Hampshire, as he had received orders, unless they did so, to march into the settlement with a military force on the following day to compel them. He requested all that would submit to range themselves on one side, and all who would not on the other. I declined to act at all, and left the meeting whilst the division was taking place. I understood afterwards that Colonel White had appointed Richard J. Blanchard a deputy sheriff. Some time afterwards, I believe it was in the month of September, a letter arrived addressed to me to, Nathan Judd, W. White and Clark, J. Haines and others, inhabitants of Indian stream, from Alexander Rea, Esq., informing us that an answer to our petition to the Government for protection had been forwarded to him, and requested us to call a meeting of the inhabitants for the following Saturday, which he would attend for the purpose of communicating to them the said answer, and for other purposes connected with the welfare of the inhabitants. In consequence, a meeting was accordingly called, and Mr. Rea communicated to us the said answer. Committees were appointed: one to recommend suitable persons among ourselves to be appointed magistrates. The Committee accordingly appointed Abner Hyland and Samuel Huggins, which recommendation was given to Mr. Rea to forward to the Government. The other Committee was appointed for the purpose of drawing up a statement of the several acts of jurisdiction that the state of New Hampshire had exercised over us after our sending in the petition for protection to the Governor of the province of Lower Canada. After this, some time in

the month of October last, William Smith and John Milton Harvey of the state of New Hampshire, deputy sheriffs, and Richard J. Blanchard of the Indian stream settlement, acting as a deputy sheriff also for the state of New Hampshire, proceeded to the house of John H. Tyler on the Indian stream settlement, and took him prisoner. Eight others, with myself, of the Indian stream settlement rescued Tyler from their hands, and the said deputy sheriffs left the settlement the same evening. I wrote to Mr. Rea informing him of what we had done, and requesting him to procure us assistance, if in his power, as we were apprehensive that a force would be sent in amongst us by persons in authority in the state of New Hampshire. No assistance was sent us, and about the 22nd day of the said month of October last, John H. Tyler, accompanied by Clough and Flanders took Blanchard prisoner, in the Indian stream settlement in virtue of a warrant which Tyler had obtained for the apprehension of said Blanchard, Smith, and Harvey, and I accompanied them with several other persons who had been called on by Clough and Flanders, namely John Parker, James Prouty, Marcus Beacher, Bernard Young, and Pascal Blood, of the township of Hereford, and David Smith, Benjamin Appleby, and John H. Tyler of the Indian stream settlement, for the purpose of taking him before the said Alexander Rea, Esq., and when we had passed Perly's house about forty rods, we were stopped by a party of men armed with guns bayonets, and pistols, and our prisoner rescued from us. The said party consisted of the following persons, namely, Ephraim H. Mahurin of Colombia, Horatio Tuttle, John M. Harvey, James M. Hillyard, and Samuel Weeks, junior, of Colebrooke, Thomas Piper, and Thomas B. Blodget of Stuartstown, Joseph P. Whiswell, and Miles Hurlburt of Clerksville, all in the state of New Hampshire. The party behaved in a violent manner, threatening to shoot us, and took away the prisoner Blanchard by force. We then proceeded on to Mr. Rea's, and made a deposition of the facts that had occurred which we all signed and swore to. After we had given in our depositions, some one said they are coming again upon which I went out to see, and saw Miles Hurlburt and Ephraim C. Aldrick drawn up on the highway threatening with many oaths to fire. I was standing at some distance from the scene, and could not understand all that was said; but I presently saw Aldrick lift up his sword and make a blow at somebody, and saw Hurlburt present and fire his pistol. I then saw a number of persons coming along the road, I should think to the number of sixty or seventy all armed, and some of them fired their guns as they came up, a little while afterwards I heard them call out "bring on the baggage waggon." I then went away and saw nothing more of them. Previously to my going away, however, I heard that Young had been wounded; in the course of that night, I heard also that Mr. Rea had been wounded and carried over the line. I left Indian stream settlement about nine weeks ago, knowing that a warrant had been issued by the authorities of the State of New Hampshire for my apprehension for rebellion against the state, and as I could not be protected there, I came further into the province. In 1834 I was appointed, and acted as a justice of the peace under the constitution of the Indian stream settlement, and last March was appointed and acted as clerk to the assembly of the said Indian stream settlement.

(Signed) ALANSON CUMMINGS.

Sworn before us at Hereford this 27th day of December, 1835.

(Signed) EDWARD SHORT,  
J. MCKENZIE,  
BENJAMIN POMROY.

## No. 2.

*Henry S. Fox, Esq. to Viscount Palmerston.—(Received February 22.)*

My Lord,

*Washington, January 25, 1837.*

I HAVE the honor herewith to inclose the copy of a despatch addressed to me by the United States Secretary of State, Mr. Forsyth, with thirty-three documents annexed, in reply to a communication which had been made to him in the early part of the last year, by His Majesty's Chargé d'Affaires, Mr. Bankhead (transmitted to your Lordship in Mr. Bankhead's despatch of the 21st of February, 1836), conveying certain representations and complaints, preferred by the Colonial Government of Lower Canada, upon the subject of unwarrantable acts alleged to have been committed by citizens of the State of New Hampshire, upon that part of the disputed boundary line called the Indian Stream territory.

The documents annexed to Mr. Forsyth's despatch, consist, first, of a letter from Mr. Hill, the Governor of New Hampshire to the Secretary of State, in reply to a reference which had been made to him for information, with respect to the proceedings complained of by the Canadian Government; secondly, of a detailed report, drawn up by commissioners appointed on the part of the Government, and Legislature of New Hampshire, to investigate the matter in question; and thirdly, of thirty-one affidavits and depositions, sworn by various persons, citizens of New Hampshire, and inhabitants



## X.

Aggression and  
Violation of Terri-  
tory by Citizens of  
New Hampshire.

of the Indian stream territory, who were examined by the above-named commissioners, and upon whose testimony the report is framed. These commissioners were appointed during the session of the New Hampshire Legislature of last year; they conducted their investigations upon the spot, during the months of July and August; and their report was recently communicated by the Governor of New Hampshire to the Legislature of the State, in its session of the present year.

It will be perceived, that in this report, the New Hampshire commissioners do not altogether deny the facts complained of by the Canadian Government, although they endeavour to a certain degree to extenuate and excuse them; while they prefer, on the other hand, upon the faith of sworn depositions, a number of counter-charges of acts of violence and outrage against certain of His Majesty's Canadian subjects. I apprehend that the inferences, which must unavoidably be drawn from the above conflicting charges and allegations, are these:—that the territory on the disputed line of frontier has become the asylum of vagabonds and outlaws from both sides, who profess allegiance to one country or the other, or to either, according as it may suit their own lawless purposes; and that no regular or peaceful jurisdiction can, in the present unsettled state of the boundary question, be exercised by either country, within the disputed territory, while the magistrates and subordinate agents of authority, from both sides of the line, mutually warn off each other, for the advantage of that class of the inhabitants only, who desire to escape from subordination to any law; and I am afraid, moreover, that the same, or rather a gradually worse state of things will continue to prevail, until the long pending question of the boundary line between Great Britain and the United States shall be satisfactorily settled.

The report of the New Hampshire commissioners, besides treating of the facts complained of by the Government of Lower Canada, enters at large into a discussion of the boundary question, bringing forward, as it appears, certain new claims on the part of the State of New Hampshire; and the governor of the state, in his letter to Mr. Forsyth, addresses, upon the faith of the said report, a very strong exhortation, an injunction almost, to the Federal Government, not to depart from the assertion of those claims, at the final settlement of the boundary question. Your Lordship will perceive that Mr. Forsyth, in conveying to me the communication received from the State Government of New Hampshire, very properly refrains from making any observations upon this part of the subject. Whenever the discussion of the important question of the boundary is renewed, it must of course be conducted between His Majesty's Government, and the Federal Government at Washington alone, whose business it will be to negotiate such minor arrangements with the several state Governments interested in the matter, as the terms agreed upon may require.

I have the honor to be, &c., with the highest respect, my Lord, your Lordship's most obedient and humble servant,

Viscount Palmerston, G.C.B.,

&c. &c. &c.

(Signed)

H. S. FOX.

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Inclosure 1 in No. 2.

*The Hon. John Forsyth to Henry S. Fox, Esq.*

*Department of State, January 12, 1837.*

IN pursuance of the president's instructions, notified to Mr. Bankhead in the note from this department of the 23d February last, copies of his communication of the 18th of February, and of the papers accompanying it, preferring a complaint against certain citizens of the United States, residing in New Hampshire, for an outrage alleged to have been committed by them on the persons of two British subjects, and for a violation of the British territory, and remonstrating against the military occupation, by the state of New Hampshire, of the Indian stream territory, have been transmitted to the executive of that commonwealth; and the Undersigned, &c. has now the honour to communicate to Mr. Fox, &c., for the information of his Government, the transcript of a letter in reply recently received from Governor Hill, and of the several documents to which his Excellency refers.

*Henry S. Fox, Esq.*

&c. &c. &c.

The Undersigned, &c.

(Signed)

JOHN FORSYTH

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Inclosure 2 in No. 2.

*Governor Hill to the Hon. John Forsyth.*

*State of New Hampshire,*

*Executive Department, Concord, December 29, 1836.*

Sir,

YOUR letter of February 1836, accompanying the copy of a note, addressed to your department on the 18th of that month, from the British Chargé d'Affaires at Washington,

enclosing charges of the Governor General of Canada, with a variety of accompanying documents relative to a "complaint preferred by his Excellency against several citizens of the United States, residing in New Hampshire, for an alleged outrage committed on the persons of certain subjects of his Britannic Majesty, and for the violation of the British territory;" also requesting the executive of this state to furnish your department "such facts and explanations regarding this matter, as may prove entirely satisfactory to his Britannic Majesty's Government, and to remove any misapprehensions that may exist in relation to it, on the part of the Canadian authorities," was received by my predecessor in office, and laid before the legislature of this state soon after my induction to office.

The result of the action of the legislature on these several communications, was the passage of a resolution, directing the appointment of commissioners to "repair to Indian stream, and collect and arrange such testimony as may be obtained, to rebut and explain the charges and testimony obtained and preferred against the authorities and citizens of the state, by Lord Gosford, governor of the province of Lower Canada."

The commission has proceeded to the discharge of its duty; and I have the honor herewith to transmit a copy of their report, together with copies of the several depositions taken of those who were eye witnesses of the transactions referred to, or who have made personal examinations, and are intimately acquainted with the boundary, and history of the disputed territory.

I flatter myself that the evidence these papers exhibit, will not only satisfy the president that the aggression complained of originated with the subjects of his Britannic Majesty's province, but that the claim made by the British authorities of right to that territory, is without foundation or any possible construction of the Treaty of 1783; and as the executive head of this state, I am bound to insist that the General Government owes it to New Hampshire, that she shall be protected in the quiet and peaceable possession of that entire tract, which lies eastwardly of Hall's stream, being the north-westernmost head of Connecticut River, southerly of the highlands which divide the waters falling into the river St. Lawrence, on the north from those falling into the Atlantic Ocean on the south, and westerly by the line which has been agreed upon as the dividing line between the States of Maine and New Hampshire.

I am, &c.

(Signed)

ISAAC HILL.

*The Hon. John Forsyth,*  
 &c. &c. &c.

#### Inclosure 3 in No. 2.

*Report to His Excellency the Governor of the State of New Hampshire, Nov. 23, 1836.*

THE Undersigned Commissioners appointed under a Resolution of the Legislature of New Hampshire, approved June 18, 1806, "to repair to Indian stream, and collect and arrange such testimony as may be obtained to rebut and explain the charges and testimony obtained and preferred against the authorities and citizens of this state by "Lord Gosford," &c. have attended to that duty, and now make the following Report:

The charges made by Lord Gosford are the three following; viz. —

1st. "The first and most serious is the irruption within the limits of this Province (Lower Canada) of armed citizens of the United States under the command of, or countenanced by an officer holding a commission in their militia, for the avowed purpose of attacking and forcibly carrying out of the province several of His Majesty's subjects."

2ndly. "The continued attempts of the state of New Hampshire, notwithstanding the repeated remonstrances of His Majesty's Government, to exercise jurisdiction, and to enforce its laws within a territory which, until it shall be formally adjudged to be part of the United States under the Treaty of 1783, must be considered as still undetached from the original possession of Great Britain and its inhabitants, consequently within the protection of her Government."

3rdly. "The military occupation by the state of New Hampshire, of the territory in question."

The Commissioners, in order to present to your Excellency and the honourable legislature of the state a plain and intelligible account of the controversy relating to the Indian stream territory, have given to the subject a more extended examination than was necessary simply to rebut and explain the charges of Lord Gosford. The following statement of facts, it is believed, will clearly and unequivocally justify the state of New Hampshire, in maintaining jurisdiction over this territory, and show that all the acts of violence there committed are to be entirely attributed to the attempt of certain individuals in Lower Canada to extend the authority of that province over the territory in question. Since the pretended award of the King of the Netherlands, the state of New Hampshire having exercised quiet, peaceable, and exclusive jurisdiction over the same from the

X.

Aggression and  
 Violation of Terri-  
 tory by Citizens of  
 New Hampshire.



## X.

Aggression and  
Violation of Terri-  
tory by Citizens of  
New Hampshire.

peace of 1783, to a period subsequent to said pretended award. In the year 1789, a Committee was appointed by the Legislature of this state, for the purpose of ascertaining the boundary lines between the state of Maine, then Massachusetts, the province of Lower Canada and this state. This Committee attended to the duties assigned them, and established and marked by suitable monuments, many of which are now remaining, a boundary line of the state, including all the territory now in dispute, and making the head of Hall's river our north-eastern boundary monument. That the Committee were right in their construction of that part of the Treaty of 1783, relative to this subject, is manifest from the following reasons:

1st. This is the only head of Connecticut River that intersects with the highlands dividing the waters which fall into the Atlantic from those which fall into the St. Lawrence.

2ndly. This is manifestly and notoriously by far the most northwesternmost head of Connecticut River, that claimed by the British Government being manifestly the most north-eastern head of Connecticut River.

3rdly. The Magalloway River, a branch of the Androscoggin, takes its rise many miles north and west, not only of that branch of the Connecticut claimed by the British as the north-westernmost head, but also north and west of Indian stream, so that, pursuing the highlands indicated by the Treaty, one would never arrive at the head waters claimed by the British Government, as those indicated by the Treaty, but would have to leave the highlands, and cross the Magalloway river to attain the object.

The above fact of the true source of the Magalloway river, it is believed, is not noticed in any geography, nor laid down in any map of the country. This may be easily accounted for, on account of its remote situation and unsettled state. It is, nevertheless, an important fact, and one which goes far not only to shew that the British claim to jurisdiction over this disputed territory is unfounded, but that, by the words of the Treaty, New Hampshire is entitled to a much larger territory there than we have ever yet claimed. Many of the first settlements of this territory were by persons who fled there from the neighbouring states to avoid the payment of their debts, or the criminal process to which their crimes had rendered them amenable. As the population increased, the character of the inhabitants improved; and although at times some of them claimed to belong to Vermont, and at other times to Maine, and at other times to be within the jurisdiction of the United States, but not of any particular state,—and at other times to be independent of the United States' Government or the Government of Great Britain; yet the officers of the state of New Hampshire from time to time, as occasion required, executed divers processes issuing from the Courts of this state, upon the inhabitants there; and although sometimes they met with such resistance as was to be expected from the character of the inhabitants, yet no complaint was ever made on account thereof by the officers of the province of Canada, or of any foreign Government whatever. Indeed the oldest inhabitants of the territory, or the towns adjacent, have no recollection of ever having heard of any act of any other Government ever exercised within the territory, save by the state of New Hampshire. The inhabitants have uniformly resorted to New Hampshire for the purpose of being united in marriage, whenever there was such a ceremony to be performed among them; and in divers other ways, such as taking advantage of our bounty laws for the destruction of certain wild animals, manifested under whose protection they lived, and to what Government they supposed they owed allegiance. Affairs were in this quiet posture, at this place, at the time of the pretended award of the King of the Netherlands; and at a period subsequent to that, one of those restless individuals, the bane of every well ordered society, who are never easy unless busied about the affairs of their neighbours, claiming to be a magistrate of Lower Canada, and to be acting by the direction of the Governor of that province, began to claim the territory as belonging to the province of Lower Canada. This claim was now asserted in different ways, such as sending pretended warrants in the name of the King of Great Britain into the Territory. He also sent a letter directed to various individuals there, requesting them to assemble at the school-house in one place on Saturday and another on Sunday, and when they were thus assembled, he met them and exhorted them to open resistance to the laws of the state, and assured them of the protection of the Government of Lower Canada in so doing.

It is the opinion of the better disposed part of the community there, that all the difficulties that have occurred at that settlement, within the 3 or 4 years last past, are to be attributed to the mischievous interference of the individual alluded to, and from all the investigation which we were able to make, we were unanimously of the same opinion.

If it be the fact that Hall's Stream be the north western-most head of Connecticut river, and if the state of New Hampshire have exercised jurisdiction over this disputed territory from the peace of 1783, to the present time; and these two points are incontestably proved by testimony taken by the commissioners, and accompanying this report, then the 2nd and 3rd causes of complaint, as set forth by Lord Gosford, entirely fail, for the military occupation spoken of by him, and the attempted jurisdiction by the state of New Hampshire are justified by every principle of the law of nations, as well as by the protection which every Government owes to its citizens.

We now proceed to state all the facts relating to the first charge of his Lordship, and we have thus inverted their order, because it seemed to us the most natural course; for if we had no title to the soil, then our jurisdiction was usurped and wrongful, our

military occupation unjustifiable, and our whole defence untenable. In October 1835, William M. Smith, deputy sheriff of Coos county, had a writ put into his hands for service against one John H. Tyler, an inhabitant of the disputed territory. Smith not knowing Tyler, and also apprehending some resistance, procured one Richard K. Blanchard, and John Hilton Harvey to assist him, and then proceeded to Tyler's house for the purpose of making service of the writ. Not having found said Tyler at his house, they went in pursuit of him, agreeably to the directions which they had received, and soon met said Tyler. Smith then requested said Tyler to show him property, that it might be attached on the writ, which he refused to do; he was arrested by said Smith, who was proceeding with said Tyler in custody, when he was forcibly rescued from said Smith's possession by several of the inhabitants.

Upon this, the individual before referred to as the occasion of all the difficulties at this place, issued a warrant in the name of the King of Great Britain against said Smith, Blanchard and Harvey, for attempting to execute process there, not issued by authority of the King of Great Britain, and sent it into the settlement for the purpose of having it served upon the individuals, against which it was issued. This was done with the full knowledge of the fact, that the state had by a resolution of the legislature, determined to maintain its jurisdiction over the territory, until the boundary line should be definitively and satisfactorily settled.

By virtue of this pretended warrant on the 22nd day of October, 1835, said Blanchard was taken from his own dwelling-house by an armed body of men, with the express and avowed purpose of carrying him into Canada for trial, on the absurd charge of having assisted in serving a writ, duly issued by the competent authority of the county of Coos. The news of this outrage was immediately spread through the adjacent towns, and excited very great indignation against its perpetrators. The inhabitants, very generally, upon being notified of the fact, expressed a determination not to suffer their fellow citizen thus to be taken from his home, and carried out of the state, without an attempt, at least, on their part to rescue him. In pursuance of this determination, several citizens of the neighbourhood went over the line dividing the state from the province of Lower Canada, for the purpose of intercepting those who had Blanchard in custody, and effecting his release. This was effected without any violence, and so far from being done under the direction of any military officer, it was an entirely spontaneous assemblage of citizens aroused by what they deemed a gross outrage upon the rights of one of their fellow citizens, subject to the direction of no military or civil officer of the state. How far this proceeding is to be palliated or justified, the wisdom of the legislature may best determine.

The facts are here stated. After said Blanchard had been thus rescued, the individuals who had turned out for that purpose, assembled at the store of Parmelee and Joy, in Canaan, Vermont. Among the number was William M. Smith, the deputy sheriff of Coos county before spoken of, who had previously arrested one John H. Tyler, and who had been rescued from him in the manner before stated. He then offered a reward of five dollars to any one who would deliver said Tyler to him.

A notion seemed very generally to prevail amongst those who were then present, that said Tyler, having once been legally made prisoner by the arrest of said Smith, might be retaken whenever he could be found. This John H. Tyler was one of those who had said Blanchard in custody at the same time he was arrested in the manner before stated.

After Smith, the deputy sheriff, had offered this reward for the recapture of said Tyler, several of the individuals who had left their homes for the avowed and expressed purpose of securing Blanchard, unadvisedly and improperly went over the line for the purpose of retaking Tyler, they having at that time the impression that they were justified in so doing. No sooner were these individuals over the line than they were set upon in a furious, boisterous, and outrageous manner by the individuals before referred to, as the cause of all the difficulties at the Indian stream settlement; and the very individual who had issued the warrant by which Blanchard had been dragged from his home, as above stated. This individual came upon them while they were peaceably and quietly demeaning themselves, having offered or threatened violence to no one, and ordered them off the highway, and attempted to make prisoners of them, and called upon those who were with him to assist. The New Hampshire citizens not relishing the idea of thus being made prisoners, resisted, and being assaulted with great violence by the inhabitants of Canada, their horses bridles seized, and stones thrown violently at them, defended themselves with such arms as they had with them, having taken them at the time they turned out for the rescue of Blanchard.

We do not undertake to state with accuracy all the particulars of the skirmish which ensued upon this assault; but we are confident in the assertion, that the first violence offered or threatened was that done to the citizens of New Hampshire by citizens of Canada. The result was, that the individual who commenced the brawl was violently seized and brought over the line into Vermont, and there detained some hours, and finally set at large.

As to the assertion that the late Governour Badger was connected with a band of speculators, claiming the territory of Indian stream as their private property, we are aware of no rule of courtesy or etiquette which requires us to call it by any milder name than falsehood.

The Commissioners, in conclusion, are happy in being able to inform your Ex-

X.

Aggression and  
Violation of Terri-  
tory by Citizens of  
New Hampshire.



X.

Aggression and  
Violation of Terri-  
tory by Citizens of  
New Hampshire.

cellency and the Legislature, that the inhabitants of this section of our state are now in as quiet and peaceable condition, as free from interal commotion or foreign interference, as any portion of the state whatever. The citizens there, who were friendly to the preservation of good order and the wholesome administration of the laws, and who had begun to apprehend they were neglected, have been assured that the protecting energies of the state are extended to all within her borders, while the lawless and the vicious have been made to feel that their remote situation affords no sanctuary for crime.

We have no hesitation in saying that the people are now contented and happy under the Government of the State, and that in future there will be no need of any further aid from the militia to assist the civil officers in the due execution of their respective duties.

The Commissioners are of opinion that the measures adopted by the late Governor of this State, the Honourable William Badger, in relation to this subject, were wise and judicious, and that to his prompt and efficient interference to maintain the integrity of the state, and the dignity of the laws, is to be attributed the present quiet condition of the inhabitants there.

(Signed)

JOSEPH LOW,  
RALPH METCALF, } Commissioners.  
JOHN P. HALE,

Inclosure 4 in No. 2.

*Deposition of David Kent.*

I, DAVID KENT, of Stewardstown, in the county of Coos, and State of New Hampshire, depose and say, that I am a regularly ordained Elder of the Free-Will Baptist Church, and as such duly qualified by the regulations of said church, and the laws of the State of New Hampshire, to solemnize marriages. I am now in the sixty-fifth year of my age, and have resided more than eighteen years in this town, and have been all the time acquainted with Indian Stream and its inhabitants, and I never knew or heard of any other Government, except the State of New Hampshire, exercising or claiming to exercise any jurisdiction over said territory, till about the time that one Alexander Rea was said to have been claiming the territory as belonging to Canada, not far from two years since. During all this time the inhabitants of Indian Stream territory have been in the habit of coming into this country for the purpose of being joined in marriage; and never, so far as I have learned, have they gone to Canada to be married, nor has any marriage ever been solemnized there among them by any one deriving authority of Canada.

I have married as many as five couple from said Indian Stream territory; and about four years since, I joined in marriage at said Indian Stream, on the Sabbath day, Samuel Drown to Deborah Hyland. This was in presence of most of the inhabitants of said Indian Stream territory, when they were assembled for religious worship; and I heard no objection made or suggested by any one on account of my want of authority, it being derived from New Hampshire.

(Signed)

DAVID KENT.

State of New Hampshire, Coos, ss. August 5, 1836.

Sworn to before me:

(Signed)

JOHN P. HALE, Justice of the Peace.

Inclosure 5 in No. 2.

*Deposition of Archelaus Cumings, Junior.*

I, ARCHELAUS CUMINGS, Junior, of Canaan, in the county of Essex, and State of Vermont, depose and say, that some time in October last past, I went from the house of my father, where I reside in Canaan, to the store of Parmelly and Joy, in said Canaan, the distance of about three-quarters of a mile, having understood that a party principally from New Hampshire had been into Canada and rescued one Richard J. Blanchard, who had been taken from Indian Stream by some Canadian people. After I arrived at said store, I found that said Blanchard had been rescued as I had previously heard. After I had been at said store some time, I heard a proposition made by some one to go over the Canada line and retake one John H. Tyler, who it was said had been arrested by one William Smith, a deputy sheriff of the county of Coos, in the State of New Hampshire, and who was said to have been advertised by said Smith.

I offered no reward for the apprehension of Alexander Rea, nor did I hear any

other person offer any reward for the apprehension of said Rea, nor of any other person, except said John H. Tyler, nor was the name of any other person mentioned by any one as the object of pursuit in crossing the line into Canada, except said John H. Tyler. I saw Captain James Mooney, one of the party who started after Tyler, and he told me at the time that John H. Tyler was the person whom they were going after, and that some Esquire, whose name I do not recollect, had advised them that they had a right so to do.

X.

Aggression and  
Violation of Terri-  
tory by Citizens of  
New Hampshire.

I further depose and say, that I have for about a year been acquainted with the reputation of Alexander James McKinnan of this town, and he is generally called a man whose word is not at all to be at all relied on. His reputation for truth is not good.

After the party started from the store of said Parmelly and Joy for Canada, I saw said Captain James Mooney hand some one a paper, which I understood at the time was said Smith's advertisement for said John H. Tyler.

(Signed)

ARCH. CUMINGS, JUN.

State of New Hampshire, Coos, ss. August 4, 1836.

Sworn to before me :

(Signed) JOHN P. HALE, Justice of the Peace.

Inclosure 6 in No. 2.

*Deposition of James M. Jewitt.*

I, JAMES M. JEWITT, of Colebrook, in county of Coos, and State of New Hampshire, depose and say, that some time in October, 1835, information was given at Colebrook, that Richard J. Blanchard, deputy sheriff of Coos county, had been taken by a party from Canada, and they were conveying him to Sherbrook. On receiving this information, I started with a number of individuals armed, Hiram A. Fletcher, Esquire, being one of them, to go and rescue said Blanchard. On arriving at Canaan, Vermont, a number of persons had arrived for the same purpose, and more were coming in every moment. They were all indignant at the outrage, and expressed a determination to retake said Blanchard, if they had to pursue him to Sherbrook. I did not go from Canaan with the party, but remained there, until they returned with Blanchard, at which time a great number of people had arrived, and more were coming in.

Some of the party that rescued Blanchard, on their return saw William M. Smith, and told him, if he had been with them, he might have retaken his prisoner Tyler. I had understood, that said Smith had some time before arrested said Tyler, at Indian Stream, and he had been rescued out of his custody. Smith in answer said, if any one would take and bring said Tyler to him, he would give five dollars. I was informed that an advertisement was made by said Smith, for said Tyler, and a party started after Tyler. I did not hear any one offer any thing as a reward for bringing Alexander Rea from Canada, nor did I hear any person mention any wish or intention to go after said Rea, nor do I believe that any of the party thought of it.

I did not hear his name mentioned in connection with the party going after Tyler, but the sole object that I heard mentioned, or that I thought of, was their going after said Tyler.

When the party returned, having said Rea in custody, great surprise and regret was expressed by the people there, that said Rea had been taken and brought there, knowing that they had no right so to do; and Hiram A. Fletcher, with whom I was in company, on being applied to make out some papers to detain said Rea, declining having any thing to do with it, told them they had done wrong, had gone too far, and that they had no right to take Rea, or detain him, and they had better get out of the scrape the best way they could; soon after which said Fletcher and myself left for home.

(Signed)

JAMES M. JEWITT.

Coos, ss., August 5, 1836. Personally appearing James M. Jewitt, and made solemn oath that the foregoing deposition by him signed is true.

Before me,

(Signed)

IRA YOUNG, Justice of the Peace.

Inclosure 7 in No 2.

*Deposition of Josiah Parmelly.*

I, JOSIAH PARMELLY, of Canaan, in the county of Essex, and State of Vermont, depose and say, that sometime in October, A. D. 1835, there was a large party



X,  
 Aggression and  
 Violation of Terri-  
 tory by Citizens of  
 New Hampshire.

assembled in my store in said Canaan, who had, as I understood, been over to Canada, and rescued one Richard J. Blanchard from the Canadians, who had taken him from Indian Stream. After they had been here sometime, it was proposed by some one to go and retake one John H. Tyler, from Canada, who had previously been arrested by one William Smith, a deputy sheriff of Coos county, and rescued from said Smith, by some of the inhabitants of Canada or Indian Stream.

I understood that said Smith had offered a reward of five dollars for the apprehension of said Tyler. Accordingly said party started.

I further depose and say, that the name of Alexander Rea, or of any other individual, except said John H. Tyler, was not mentioned by any one till after they returned, having said Alexander Rea in custody, said Tyler being the sole object of their pursuit. I made no offer of any reward for the taking of said Rea; nor did I hear any one else offer any reward for him; nor did I hear his name mentioned till after said Rea was brought here.

I further depose and say, that I am well acquainted with Alexander James McKinnan, of said Canaan, tailor; and that his reputation for truth is notoriously bad.

(Signed)

JOSIAH PARMELLY.

State of New Hampshire, Coos, ss. August 4, 1836.

Sworn to before me,

(Signed)

JOHN P. HALE, Justice of the Peace.

Inclosure 8 in No 2.

*Deposition of Jesse Carr.*

I, JESSE CARR, of Colebrook, in the county of Coos, and State of New Hampshire, depose and say, that as early as the year 1808, I have known Levi Willard, at that time, sheriff of this county, frequently to go to Indian Stream territory, for the purpose (as he said) of serving judicial process on some of the inhabitants there, and on one occasion, I knew said Willard to go with a writ or process, as he then told me against one Nathaniel Wales of said Indian Stream; and I saw him return with said Wales in custody. I further depose and say, that I have for about thirty years, been well acquainted with Indian Stream territory, and I never knew or heard of any other authority claiming to have any jurisdiction over said territory, except the State of New Hampshire, till within about one year, in which time I have heard that one Alexander Rea has been there asserting the claim of Lower Canada.

I further depose and say, that in the year 1821, I was with Dr. Turk, and Mr. Carlisle, British surveyors, to survey the line between this State and Lower Canada; and that Dr. Turk then remarked, that Indian Stream would be the one ultimately fixed upon as the boundary line, because that was the one most northerly, and the one first intersected by the highlands, running the course indicated by the Treaty.

I further depose and say, that I am well acquainted with the general reputation of Alexander Rea, of Hereford, and it is bad.

One reason why I remember accurately the time when said Willard went into said territory, for the purpose of serving process on the inhabitants of Indian Stream aforesaid, is that immediately previous to that, I had been specially deputed by said Willard, to serve a warrant on an inhabitant of said territory, and went there for the purpose; but not finding him returned, having made no service. I was appointed a deputy sheriff of this county about the year 1809, and continued in said office seven years.

(Signed)

JESSE CARR.

State of New Hampshire, Coos, ss. ; August 18th, 1836.

Sworn to before me,

(Signed)

JOHN P. HALE, Justice of the Peace.

Inclosure 9 in No. 2.

*Deposition of Ira Young.*

I, IRA YOUNG, of Colebrooke, in the county of Coos, and State of New Hampshire, attorney and counsellor at law, depose and say, that in the year 1819, I opened an office at Colebrooke, and remained until 1820 or 1821, when I removed to Bath, and in 1825 or 1826 returned to Colebrook where I have resided ever since. That

occasionally, ever since 1819, I have made writs and other processes against persons residing at Indian Stream, which have been served there by deputy sheriffs of Coos County, some of which have been settled, and upon some I have obtained judgements in our courts. That from 1819, until within one or two years, I never heard that the Canadian or British Government ever laid any claim to jurisdiction over said territory, or that any of the residents at Indian Stream claimed to be within their jurisdiction. The majority of the population there, during the most of that time, was composed of individuals who had gone there to avoid debts, or being pressed for the payment of them, claiming at Indian Stream sometimes to be within the State of Vermont, sometimes in the State of Maine, sometimes without any State, and to be a territory belonging to the United States, and sometimes to be independent, as not being within the territory of the United States, or of the province or provinces of the British Government.

In October, 1831, proceedings were instituted, in which I was counsel, under our statute "to provide for the maintenance of bastard children," in the name of Melissa Thurston, of said Indian Stream, against Moody Haynes of said Indian Stream, in which said Melissa charged said Moody Haynes of being the father of the child of which she was then pregnant, and that it was begotten in April, 1831, at said Indian Stream. The said Haynes was arrested, and bound over to appear at the Court of Common Pleas, Coos county, September term, 1832, at which term Haynes appeared and pleaded to the jurisdiction of said court, because the cause of complaint occurred to said Melissa "at Indian Stream, and on the west side of Connecticut River, in the territory of Indian Stream," without the jurisdiction of the court, &c. The complainant replied that the cause of complaint accrued within the county of Coos, within the jurisdiction of the court, &c. The prosecution was pending until the Old Court of Common Pleas was abolished; and the present court established, and the jurisdiction of the present Court of Common Pleas sustained by the concurrence, as I understand, of the judges of the superior court, and before the term for which the prosecution stood for trial, the same was settled by the parties and dismissed. The jurisdiction was overruled on the ground, that years before, the question had been settled in the superior court sustaining the jurisdiction.

(Signed) IRA YOUNG.

State of New Hampshire, Coos, ss. August 6, 1836.

Sworn before me:

(Signed) JOHN P. HALE, Justice of the Peace.

Inclosure 10 in No. 2.

*Deposition of Joseph Wiswell.*

I, JOSEPH WISWELL, of Clarksville, in the county of Coos, and State of New Hampshire, depose and say, that I have been a justice of the peace for this county about six years, and have lived in this town about twenty years, and have been well acquainted with Indian Stream and its inhabitants for most of the time, and never knew or heard of any other Government than the State of New Hampshire, exercising or claiming to exercise any jurisdiction there, till the interference of one Alexander Rea, in June, 1834, who then claimed that the territory belonged to the province of Lower Canada. Sometime in the month of October last, Clark J. Haines, of Indian Stream, came to my house, in Clarksville, and informed me that a mob had been over from Canada, and had taken one Richard J. Blanchard, one of our citizens, and were carrying him to Canada, and he wished the neighbourhood to turn out and rescue him. Soon after the same report and request was made by Luther Parker. I accordingly started for Indian Stream with the intention of rescuing said Blanchard, and just as I arrived at the house of Ebenezer Fletcher, in Indian Stream, I overtook Miles Hurlburt, John Harriman, and several others. We left said Fletcher's together, and just as we arrived at the house of John Parker, situate on the easterly side of Hall's Stream, we concluded the party who had Blanchard in possession would pass Hall's Stream before we could overtake them, and as we did not wish to go into Canada armed, it was concluded to send back the arms. Accordingly I took the arms to carry back, accompanied by two or three others, and on our way back, I saw Emor Applebie, who, I understood, was one of those who had been concerned in the abduction of said Blanchard; and he was requested to surrender himself, which he refused to do, and being armed with a musket, he stated that he should not be taken alive, we had better not come any nearer. We, that is to say, those that started from John Parker's with the arms, proceeded to Canaan corner, Vermont, and when we arrived there found that the party who had gone in pursuit of those who had Blanchard, had returned to Canaan having rescued said Blanchard, and brought him back with them. I was there when the party started after Tyler, from the store of Parmelee and Joy, and I did not hear Rea's name mentioned at all in connexion with their expedition to Canada. After this party had gone to Canada after said Tyler, I went up to the house of Judge Cummins in said Canaan, situated between the house

X.

Aggression and  
Violation of Terri-  
tory by Citizens of  
New Hampshire.



X. of said Alexander Rea, in Hereford, and the store of Parmelle and Joy; and a few minutes afterwards, my son, Joseph P. Wiswell, came up there also, where we remained and took supper, and were there when the party having said Rea in custody, returned to Canaan, Vermont; so that I am enabled to state positively that neither my said son, Joseph P. Wiswell, nor myself had any part in taking of said Rea, or conveying him to Canaan, Vermont. The inhabitants of Indian Stream whenever they have destroyed any wild animals, for which a bounty is given by the laws of the State of New Hampshire, have, so far as my knowledge extends, uniformly applied for said bounty here, and obtained it. I have frequently joined the inhabitants in marriage, and never knew them to resort to Canada for the purpose of being married, or any one deriving his authority from the church or civil authority of Canada, to solemnize marriages among them.

(Signed) JOSEPH WISWELL.

State of New Hampshire, Coos, ss. August 9, 1836.

Sworn to before me:

(Signed) JOHN P. HALE, Justice of the Peace.

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Inclosure 11 in No. 2.

*Deposition of William M. Smith.*

I, WILLIAM M. SMITH, of Stewartstown, in the county of Coos and State of New Hampshire, depose and say, that on the 26th day of June, A. D. 1834, I was duly appointed a deputy sheriff, of said county, by John H. White, Esq., sheriff of said county, that about the last of September or first of October, A. D. 1835, a writ in favour of William Buckminster, of Danville, Vermont, against John H. Tyler, of Indian Stream, in said county of Coos, was delivered to me, I accordingly went to the residence of said Tyler for the purpose of making service of said writ, having previously procured Richard J. Blanchard and John Milton Harvey, to go with me, both because I did not know said Tyler when I saw him, and also because I had heard that there had been some difficulties at the place, and some of the inhabitants had threatened resistance to any officer who should attempt to serve process there. I went to said Tyler's dwelling house first, and not finding him at home I proceeded farther at a farm where said Tyler was at work, and arrested him by virtue of said writ, having previously requested him to show me property, which he declined doing. As I was proceeding with said Tyler in my custody, we were met by Emor Appleby and two of his sons. Alanson Cummings, and a man by the name of Tyler whose christian name I do not know, Jonathan C. L. Knight, and two more, whose names I do not know, all stopped by the side of the road where I must necessarily pass with Tyler. At the request of Tyler, my prisoner, I also stopped where these men were, and I was very soon told I must go no farther with said Tyler, and after being told by all or most of the party that Tyler should be carried no farther by me, and that they would protect him from me, even at the cost of their lives, I was, upon attempting to take said Tyler along with me, forcibly prevented by said Emor Appleby, who interposed himself between me and my prisoner, aided and countenanced as aforesaid by the company with him as aforesaid, and thereupon I left them, and made a return of said writ to the court, when and where the same was returnable, with a return of my doings on the same, stating the facts precisely as they occurred. Immediately after said Tyler was rescued from me in the manner above related, I informed John H. White, Esq., sheriff of said county, of all the facts, and by his advice I offered a reward of five dollars for the apprehension of said Tyler, and a delivery to me or to the Lancaster gaol, by an advertisement. Not long after this I heard that said Blanchard had been taken from his home by some people from Canada, and that they were then carrying him to Canada. This report was generally spread through the neighbourhood and produced great excitement and indignation, and a pretty turn out of the citizens for his rescue. I among the number turned out, and so far as I could learn or understand the feelings of those who came out, there was a settled and inflexible determination to rescue said Blanchard, at even the extremest hazard. When I arrived at the store of Parmelly and Joy, in Canaan, Vermont, not being armed myself, *I gave up my horse to an individual who was armed*, who proceeded immediately towards Canada, in the direction that those who had Blanchard in custody must necessarily pass. In about an hour after I had thus given up my horse, the party returned with said Blanchard. Some one then remarked to me, that said John H. Tyler was with the party who had said Blanchard in custody, and that if I had been with them, I might have retaken him. Some one then asked me for an advertisement of said Tyler, but I had none with me, but had one written immediately, which they took, and a party then started from the store of Parmelly and Joy for Canada, for the purpose of retaking said Tyler, as they stated. I did not hear Alexander Rea's mentioned, in connexion with this party going to Canada, until after they, with him in custody, said Tyler being the

sole object of their pursuit. The individual to whom I gave the advertisement was Captain James Mooney.

X.

WM. M. SMITH.

Aggression and  
Violation of Terri-  
tory by Citizens of  
New Hampshire.

State of New Hampshire, Coos, ss. August 3, 1836.

Sworn to before me,  
JOHN P. HALE, Justice of the Peace.

Inclosure 12 in No. 2.

*Deposition of Hezekiah Parsons.*

I, HEZEKIAH PARSONS, of Colebrook, in the county of Coos, and State of New Hampshire, one of the justices of the peace of said county, and late member of the New Hampshire legislature, do depose and say, that I have resided in this town about forty-five years, and am well acquainted with the Indian Stream territory. In the year 1817, or 18, I was deputy sheriff in said county, and had precepts against persons residing in said territory, and I went there for the purpose of serving the same by attachment of property, but could not find such as I was directed to take. The territory was then, and had been deemed by most people as belonging to New Hampshire. I recollect that in 1807, I was a member of the New Hampshire legislature, and there was then a petition before said legislature, praying the state to relinquish their claim to said territory, which was refused. Since the time I have referred to, in 1817, or 18, I have often heard of precepts being served in the Indian Stream territory, issued by the authorities in New Hampshire, and served by their officers.

Sometime about the year 1820, I was employed by the Attorney-General of the State, to ascertain the line and bounds of certain settlers on the territory, for the purpose of judicial process. In attending to this duty, I was aided and assisted by the inhabitants of the territory. I recollect that the names of Mr. Highland and Mr. Fletcher were two of the persons against whom process was instituted, who resided between the Indian Stream, and what is now called Connecticut river.

(Signed) HEZEKIAH PARSONS.

State of New Hampshire, Coos, ss. August 2, 1836.

Then Hezekiah Parsons personally appeared, and made oath that the above deposition by him signed is true.

Before me, (Signed) JOHN P. HALE, Justice of the Peace.

Inclosure 13 in No. 2.

*Deposition of Gideon Terrill.*

I, GIDEON TERRILL, of Clarksville, in the county of Coos, and State of New Hampshire, depose and say, that since the 7th day of March, A. D. 1825, I have been a justice of the peace for said county of Coos. I have for twenty-two years resided, where I now do, within four miles and a half of Indian Stream, and during all this time, I have never known or heard of any other government than the State of New Hampshire exercising or claiming to exercise any jurisdiction in any way or manner over said territory, till some time in the month of June, A. D. 1835. I understood one Alexander Rea had claimed the territory as belonging to the province of Lower Canada, and on that ground had sent a warrant there against Luther Parker one of the inhabitants, by which he was seized and carried out of the State. I have married a number of couples from said Indian Stream, and I never knew or heard of any of the inhabitants going to Canada to be married, or having a clergyman or magistrate to marry them there from Canada. I have known the inhabitants of Indian Stream as long since as nine or ten years to obtain the bounty paid by this State for the destruction of wolves whenever they destroyed any.

Sometime in October last, Clark J. Haines came to my house and informed me that a mob from Canada had been over and taken Richard J. Blanchard, and were carrying him to Canada. This report excited very general indignation in this neighbourhood, and there was a general turn out for his rescue, myself among the number; but when I arrived at the store of Parmelee and Joy, in Canaan, Vermont, I found that said Blanchard had been already rescued, and he was then there at said store. After we had been some time at said store, an advertisement was exhibited, offering a reward of five dollars for the apprehension of one John H. Tyler, who had previously been arrested by one William M. Smith, a deputy sheriff of the county, and rescued from him by a mob at Indian Stream; a party accordingly started after said Tyler, but I did not hear the name of Alexander Rea, or of any other individual mentioned, as an object of pursuit, except



X. said John H. Tyler. When this party returned, they brought back said Alexander Rea with them, I did not go into Canada that day for any purpose.  
 Aggression and Violation of Territory by Citizens of New Hampshire. (Signed) GIDEON TERRILL.  
 State of New Hampshire, Coos, ss. August 9, 1836.  
 Sworn to before me, (Signed) JOHN P. HALE, Justice of the Peace.

## Inclosure 14 in No. 2.

*Deposition of Ephraim C. Aldrick.*

I, EPHRAIM C. ALDRICK, of Indian Stream, depose and say, that about the 22nd day of October, A. D. 1835, I was informed that a party from Canada had been over the line and taken Richard J. Blanchard, one of our citizens, and were carrying him to Canada; upon this I turned out for the purpose of rescuing him, as did the inhabitants of the place and the neighbouring towns generally. I was not with the party who rescued said Blanchard, having gone on purpose in another direction. After said Blanchard was rescued and brought back to the store of Parmelee and Joy, in Canada, Vermont, Miles Hurlburt and myself left said store and started for Canada, for the purpose of retaking one John H. Tyler, who had previously been arrested by one William M. Smith, a deputy sheriff of Coos county, and rescued from him by a mob at Indian Stream. At the time we thus started after said Tyler, we had with us an advertisement of said Smith for said Tyler, and we supposed we had an undoubted right to retake said Tyler wherever we might find him,—we had not the most remote idea of taking Alexander Rea, or any one else except said Tyler, nor in any way molesting or meddling with them.

When we had got into Canada and were peaceably talking with one John Parker, not having offered or threatened, or intended any violence, by action, word, or gesture, we were violently assaulted by said Alexander Rea, in the manner testified by Miles Hurlburt; Rea and Young, both came to me, took my horse by the bridle, and attempted to make a prisoner of me. After commanding them to let me alone, and let go my horse, which they would not do, I drew my sword and struck Young with it, and immediately thereupon said Alexander Rea threw at me a large stone, weighing, as I should judge, eight or ten pounds, which hit me on the head near my right eye, and broke the bone at the corner of my eye.

It has been stated and sworn by said Alexander Rea and some others, as I am informed, that said Hurlburt and myself stopped some people in the road before said Rea came up to us as aforesaid.

I solemnly depose and say, that said statement by whomsoever it is made, is absolutely and totally false in every particular.

We stopped no one, nor did we attempt or intend to stop any one, till we were assaulted by said Alexander Rea and Young as aforesaid.

(Signed) E. C. ALDRICK.  
 State of New Hampshire, Coos, ss. August 11, 1836.

Sworn to before me:  
 (Signed) JOHN P. HALE, Justice of the Peace.

## Inclosure 15 in No. 2.

*Deposition of Francis Wilson.*

I, FRANCIS WILSON, of Guidhall, in the county of Essex, and State of Vermont, depose and say, that in the year 1821, I was appointed a deputy of the sheriff of the county of Coos in the State of New Hampshire, which office I continued to hold about seven years. I resided at Colebrook in said county of Coos, for nearly three years immediately following my said appointment, and during that time I served various processes on inhabitants of Indian Stream territory, and during said time I never heard of any claim to jurisdiction over said territory or its inhabitants by any other power than the State of New Hampshire. Many of the inhabitants of said territory were reputed and considered to be a lawless set, opposed to the enforcement of any law, and the place, at that time, from its remote situation, was supposed to be a place of resort for those who found it convenient to reside in that part of the country, where debts could be collected by legal process, and the criminal law duly enforced.

(Signed) FRANCIS WILSON.  
 State of New Hampshire, Coos, ss. August 6, 1836.

Sworn to before me:  
 (Signed) JOHN P. HALE, Justice of the Peace.

## Inclosure 16 in No. 2.

*Deposition of Ebenezer Fletcher.*

X.  
 Aggression and  
 Violation of Terri-  
 tory by Citizens of  
 New Hampshire.

I, EBENEZER FLETCHER, of Indian Stream, in the county of Coos, and State of New Hampshire, depose and say, that I have resided where I now do for the last twenty-four years, and I never knew or heard of any other power or authority than the State of New Hampshire, exercising or claiming to exercise any jurisdiction over this territory, till sometime in the year 1835, I understood one Alexander Rea had been in the settlement claiming that the territory belonged to Canada. I have frequently known sheriffs from New Hampshire come here to serve legal process; but I never knew any officer from Canada come here, or attempt to come here with any such purpose.

The inhabitants of this settlement have generally, till within about fourteen months, claimed to constitute a settlement subject to the general jurisdiction of the United States, but not within the limits of any particular state; but I never knew or heard of any of the inhabitants claiming to belong to Canada, till the time I have before mentioned, viz. sometime in 1835. I do not know where the line run by the committee of the New Hampshire Legislature, in the year 1789, is; but I have been told by Thomas Eames, who has been dead about five years, that he "was surveyor who went with said committee; and that the line which said committee established followed the highlands on a westerly course, till it met the head waters at Hall's Stream;" and the limits of this state have always been reputed, and considered as extending thus far.

(Signed) EBENEZER FLETCHER.

State of New Hampshire, Coos, ss. August 11, 1836.

Sworn to before me:

(Signed) JOHN P. HALE, Justice of the Peace.

## Inclosure 17 in No. 2.

*Deposition of Benjamin Applebie.*

I, BENJAMIN APPLEBIE, of Indian stream, in the county of Coos, and state of New Hampshire, depose and say, that I have lived in the place seventeen years. I am a son of Emor Applebie, now in gaol at Lancaster, and was arrested last winter by Colonel John H. White, and was carried to Lancaster, and detained at Lancaster six months and three days for resisting a deputy sheriff of Coos in the service of the process. I further depose and say, I never should have thought of resisting the officer of New Hampshire, had I not been advised so to do, and assured I should be protected in so doing by the Government of Canada, by Alexander Rea of Hereford, Lower Canada.

(Signed) BENJAMIN APPLEBIE.

State of New Hampshire, Coos, ss. August 11, 1836.

Sworn to before me:

(Signed) JOHN P. HALE, Justice of the Peace.

## Inclosure 18 in No. 2.

*Deposition of Richard J. Blanchard.*

I, RICHARD J. BLANCHARD, of Indian Stream, in the county of Coos, and State of New Hampshire, depose and say, that about the twelfth day of October, A. D. 1835, William M. Smith, a deputy sheriff of Coos county, came to me, and told me he had a writ against John H. Tyler, of this place, and he did not know the man, and he wanted me to go with him and shew him said Tyler, which I accordingly did. Soon after this, to wit, on the 22d day of the same October, Zebulon Flanders, Zaccheus Clough, and John H. Tyler, came to my house, armed with one musket between them, and told me they had a warrant against me. I asked them by what authority. They answered "the King's." I asked said Clough, who appeared to be the chief man of the party, if he would read said warrant to me, and he replied yes, and attempted to read it, but was unable to do it; and I asked him to let me have it, and he did hand it to me; but before I had read it, said Flanders took it from me, and the party started with me, and were occasionally joined by others, so that by the time I was rescued, the party having custody of me amounted to twelve or fifteen. When I was within about a mile of the house of Alexander Rea, to which place I understood they were conveying me, we were met by a party of about eight men from New Hampshire, on horseback, all or most of them armed; and they demanded my release from the party having custody of me, which was refused; but, after some further talk, the party from New Hampshire resolutely demanded my release. I was at length released, without any force being used



X.  
 Aggression and  
 Violation of Terri-  
 tory by Citizens of  
 New Hampshire.

on either side, and I went with the party down to the store of Parmelly and Joy, in Canaan, Vermont.

I am a deputy of the sheriff of Coos county, and was at the time of my said abduction. I have lived at this place about fifteen years, and never knew or heard of the British Government exercising or claiming to exercise any jurisdiction here till some time last year, when Alexander Rea began to claim that the territory belonged to Canada, and, on that ground, began sending his warrants into the settlement.

(Signed) RICHARD J. BLANCHARD.

State of New Hampshire, Coos, ss, August 11, 1836.

Sworn to before me, (Signed) JOHN P. HALE, Justice of the Peace.

Inclosure 19 in No. 2.

*Deposition of Luther Fuller.*

I, LUTHER FULLER, of Colebrook, in the county of Coos, and State of New Hampshire, depose and say, that in the year 1785, I hunted on Indian Stream territory for Major Whitcomb, and afterwards, in 1789, I went with the New Hampshire Committee for locating the lands belonging to the State, in the north and east part of said State. That ever since 1785 I have been acquainted with said territory, having resided most of that time in this part of the State. I have always understood the same to belong to the State of New Hampshire, and always supposed the line as run in 1789, as fixing, locating, and establishing that territory as within the State, and never heard it questioned until within a year or two; and I never knew of any claim made during that time by the British or Canadian Government until within a year or two of that territory. That about thirty years since, Levi Willard, a sheriff of Coos county, attached and drove away a number of oxen and cows, and young cattle, from said territory, belonging to a person of the name of Smart, who resided at said Indian Stream; and I have heard of services having been made in said territory ever since, by sheriffs or their deputies of Coos county. From my knowledge of Hall's stream, Indian stream, and the streams running into the ponds and lakes connected with Lake Connecticut, having been on these streams in 1789 with the committee, and having hunted there before, I have no doubt that Hall's Stream runs farthest northwest of either of said streams.

Coos, ss, August 9, 1836.

(Signed) LUTHER FULLER.

Personally appearing, Luther Fuller, and made solemn (oath) that the above deposition by him subscribed is true.

Before me,

(Signed)

IRA YOUNG, Justice of the Peace.

Inclosure 20 in No. 2.

*Deposition of Miles Hurlburt.*

I, MILES HURLBURT, of Colebrook, in the county of Coos, and State of New Hampshire, depose and say, that some time in the month of October, A. D. 1835, Clark J. Haynes, of Indian Stream, came to my house in Clarksville, where I then lived, and told me that some of the Canadians had been over and taken Richard J. Blanchard, and were carrying him to Canada, and he wanted me to take my gun with me, and go help rescue him from them. Said Haynes, intended to go on towards Colebrook village, as I understood from him at the time, for the purpose of notifying the citizens on the road of the outrage that had been committed in the abduction of one of our citizens.

I immediately started, taking with me my gun, powder and balls, and I was joined by Joseph P. Wiswell, and John Harriman, who were on horseback, and both armed, as I think with horseman's pistols.

We all three proceeded to the house of Ebenezer Fletcher, in Indian Stream; and immediately before we arrived there, we were joined by Joseph Wiswell, Esquire, and when we arrived at said Fletcher's, we found there Ephraim Aldrick, Oliver Washburn, and a son of said Richard J. Blanchard, whose name I do not know, being a lad about fourteen years of age, who had been employed in alarming the neighbourhood, and requesting them to turn out and rescue his father, and a number of others, whose names I do not now recollect. There were about six of us who went from said Fletcher's, and we proceeded about four or five miles, to the house of John Parker's, in Indian Stream, where we stopped and consulted what was best to do. We then and there concluded to send our arms back to said Ebenezer Fletcher's, which we did, by Joseph Wiswell, Esquire, who took them all, assisted by two or three others, who went back with them.

We then, viz: Oliver Washburn, Ephraim Aldrick, John Harriman, Joseph P. Wiswell, Blanchard's young son, before-mentioned, and myself, went on to the house of Barnard Young, in Hereford, where we found said Blanchard in the custody of said Young, at his house taking dinner. The party at said Young's, who had the custody of said Blanchard, consisted of said Barnard Young, Zaceheus Clough, Zebulon Flanders, a Mr. Prouty, whose christian name I do not know, David Smith and several others,

whose names I do not know, amounting in the whole, to about twelve. We concluded that we were not strong enough to rescue said Blanchard. After the party had finished taking dinner, we asked and obtained liberty to speak with said Blanchard; and then suggested to him, that if he had a mind to attempt his escape, we would interfere, and endeavour to prevent the Canadian party from making pursuit after him; but he thought, as the Canadian party was then so much the strongest, it would be of no use to attempt an escape, for that it would be fruitless, and so the idea was abandoned.

N.  
Aggression and  
Violation of Terri-  
tory by Citizens of  
New Hampshire.

The party having Blanchard, then proceeded on their way, while we tarried behind, feigning that we did not intend to proceed any farther, though at the same time, we were determined to go around another way from the one which they travelled, and intercept them before they reached the house of one Alexander Rea, where we understood from said party, they were carrying said Blanchard; provided we were fortunate enough to be joined by a force from New Hampshire, strong enough to make our interference effectual. We were met before we got to Canaan Corner (which lay upon the route we were taking) by Ephraim H. Mahuren, and Hiram A. Fletcher, Esquire, who both joined our party, and soon after by many more; and when we arrived at Canaan corner, I should judge there were nearly one hundred men assembled, most of them armed, this being at the store of Parmelly and Joy. There were about eight of us who started from the store of Parmelly and Joy, to go after Blanchard, all on horseback, and all armed. This party consisted of Ephraim H. Mahuren, John Milton Harvey, Joseph P. Wiswell, James Minor Hilliard, Horatio Tuttle, Thomas B. Bloodget, Samuel Weeks, Jun. and myself.

There were many more who had started, and were close at hand, and others who had gone round another way, by the house of said Rea. When we came up with the party who had said Blanchard in possession, James M. Hilliard rode up to the first, and I did not hear precisely what he said, but understood at the time, that he demanded of them to give up Blanchard, which they declined doing; we all then rode up and commanded them to stand.

This order was given by Ephraim H. Mahuren, or Horatio Tuttle, I cannot say which. At this, most of the party stopped, but some of them appeared to be moving towards the woods, when said Horatio Tuttle said, "stand, or God damn you, I'll blow you through." They then all stopped, and Mr. Mahuren dismounted and went among the party for the purpose of inducing them, by persuasion, to release Blanchard, which they declined doing, Mr. Prouty keeping his arm locked in Blanchard's. After some further conversation between the two parties, we demanded Blanchard, and they refusing to give him up, Mr. Mahuren went up to him, and told him to get on to his horse, which he did, Prouty keeping his hold of him till he put his foot in the stirrup to mount Mr. Mahuren's horse, and then we all went off with said Blanchard down to Canaan corner, in Vermont, at the store of Parmelly and Joy, in Canaan; something was said by some one about retaking from Canada, one John H. Tyler, who had previously been arrested by one Wililam Smith, a deputy Sheriff of Coos county, and rescued from him by some of the inhabitants of Indian Stream, and for whose apprehension said Smith had offered a reward of five dollars, by advertisement, which advertisement was then shown to me by said Smith. Ephraim C. Aldrick and myself then started for Canada, having with us said advertisement; *and honestly supposing that we had an undoubted right to retake said Tyler, such being the state of the facts, in any place where we might find him.*

We had not at that time the most remote idea of meddling with or molesting Alexander Rea, or any other individual whomsoever, except said John H. Tyler. Said Tyler was one of the party, as, upon reflection, I now remember, who had said Blanchard in custody when we rescued him. When we had *got over the dividing line* between the United States and Canada, and about in sight of Alexander Rea's house, we met John Parker coming from the direction of said Rea's house towards Canaan corner.

Said Parker stopped of his own accord, and entered into a conversation with said Aldrick, not the least force being used or threatened by any one. While said Aldrick and said Parker were thus peaceably talking, I saw Alexander Rea coming towards us as fast as he could come, hallooing and bellowing in the most boisterous manner imaginable, more like a madman enraged than any reasonable being, commanding us to be off the King's highway, and the next moment to be off his grounds.

Seeing him come upon us in this manner, and accompanied by about twelve or fourteen men whom he was calling upon to make prisoners of Aldrick and myself, I requested Elisha A. Tirrell, who had just joined us, to ride back till he met others of our party, and ask them to come on. I then presented my pistol to said Rea, and told him to keep his proper distance, for I should not be taken by him; for, if he came any nearer, he should take the contents of my pistol.

Said Aldrich then spoke and said to Mr. Rae, "I should advise you not to go any further, for he may hurt you." Rae then turned towards said Aldrich, and ordered Barnard Young to take said Aldrick's horse by the bridle, and upon Young and Rae attempting to take Aldrick, he defended himself with his sword. Immediately upon this, Rae, and the party with him, commenced throwing stones as rapidly and as violently as possible, two of which hit me with great force, when I discharged the pistol which I had with me, and not before, at the assailants. In firing my pistol, I did not aim at any one in particular, and did *not think of hitting any one*, but I did it more for the purpose of frightening them. About this time there were thirty or forty more of the



X.  
 Aggression and  
 Violation of Terri-  
 tory by Citizens of  
 New Hampshire.

party, which I left at Parmelly and Joy's store, came in sight, when said Rea, and those with him, immediately took to flight; Rea running for the woods, and Aldrick after him. When I came up with Aldrick and Rea, Aldrick had Rea down: Aldrick having one hand hold of the collar of Rea's coat, and one hand hold of the hilt of his sword, and Rea having hold with both hands of the blade of Aldrick's sword, with the point of it sticking in the ground, and Aldrick was kicking Rea in the side. When I came up, Rea was saying "I surrender," and Aldrick replied, "then God damn you, let go of the sword, and I will let you alone." Dr. Tirrell at the same time came up, and remarked to Aldrick, "he says he surrenders, why don't you let him get up?" Aldrick again replied, "if he will let go of the sword I will."

And Dr. Tirrell remarked to Rea, "if you will let go the sword, I will guaranty that Aldrick will not hurt you, whereupon Rea let go the sword, and Aldrick let him get up, and we took him and put him into the wagon, and carried him down to the store of Parmelly and Joy, in Vermont. While this skirmish was carried on I heard four or five guns fired, one of which I fired, as before stated. Who fired the others, I cannot tell, for I do not know. I have heard it was stated by said Alexander Rea and some others, that said Aldrick and myself stopped one or more people in the road before he came up to us in the manner before stated. I now, upon due reflection, solemnly depose and say, that we did not stop, or attempt to stop, any one by word or deed, or threat of any kind, until we were assaulted by Alexander Rea and the party with him, in the manner above stated.

(Signed)

MILES HRULBURT.

State of New Hampshire, Coos, ss. August 5th, 1836.

Sworn to before me,

(Signed)

JOHN P. HALE, Justice of the Peace.

Inclosure 21 in No. 2.

*Deposition of Luther Fuller.*

I, LUTHER FULLER, of Colebrook, in the county of Coos, do depose and say, that in the year 1789, I was employed by Jeremiah Eames, a Mr. Cram, and a Mr. Hoit, who had been appointed commissioners by the State of New Hampshire, to ascertain, run, and mark the north-western and northern boundary of New Hampshire. In the month of March, we ascended Hall's Stream, about fifteen or seventeen miles from its mouth, and there we erected a monument.

When we had arrived at this point, supposing that we had got above the other head waters of the Connecticut, we left Hall's Stream, and took an east or north-east course, till we reached the highlands that divide the waters that run into St. Francis River, from those that run into the Connecticut. I think that we went about fifteen miles from Hall's Stream, east or north-east on to the highlands, and here we erected a monument, and then returned.

In the fall of the same year we went to Fryeburg, now in the State of Maine, and run north on the line, between then Massachusetts, now Maine and New Hampshire, till we again came to the highlands that divide the waters of the St. Francis from those of Connecticut river in this State.

Here we fell and girded trees and erected a monument for the north-east corner of New Hampshire.

Thence we run west following the highlands, till we came to the monument we erected on the said highlands in March before, when we went up Hall's Stream.

Messrs. Eames, Cram, and Hoit, are all dead, and I believe, all the company except Theophilus Culter and David Smith, who live somewhere in Vermont, and myself.

Several years since, the state of New Hampshire commenced prosecutions against one Ebenezer Fletcher and some others, for intruding upon lands in Indian Stream territory. Col. Eames was witness on the trials, and I heard his testimony, and he swore to the facts above stated. I was also a witness and swore to the same.

I further say, that, in following the highlands from the north-east monument, we erected, west, we pass above all the head waters of the Connecticut, or the streams emptying into the Connecticut, till we come to Hall's Stream.

I well recollect we passed above all the waters of Indian Stream, which was then considered the main branch of Connecticut River, though there was but little difference in the size of the three branches.

(Signed)

LUTHER FULLER.

State of New Hampshire, Coos, ss., August 3, 1836.

Sworn to before me,

(Signed)

JOHN HALL,

Justice of the Peace.

Inclosure 22 in No. 2.

*Deposition of Nathaniel Perkins.*

I, NATHANIEL PERKINS, of Indian Stream, in the county of Coos, and State of New Hampshire, depose and say, that I have lived where I now do twenty-two years, and during all the time I never knew or heard of any other authority or government exercising, or claiming to exercise any jurisdiction here except the State of New

Hampshire, till some time in the year 1835, one Alexander Rea sent into the settlement claiming that the territory belonged to Canada. Some time the last of September or first of October last past, said Alexander Rea sent a letter to Jeremiah Gabor, and several other inhabitants of Indian Stream, which letter was shewn to me, although it was not directed to me, requesting them to notify the inhabitants that he should meet them at a school-house in the settlement, on the following Saturday, at four o'clock, P. M., and also on the Sabbath following at another school-house in the settlement, at one o'clock P. M., if it was thought best, and that he would meet them and lay before them more communications from his Government. I state the contents of this letter from recollection, not having it in my possession. The meetings were notified and holden accordingly, and said Rea attended and read some communications which he said were from Lord Gosford, the Governor of Lower Canada, through his private secretary, to Mr. Moor, the representative of St. Francis, stating, among other things, that the territory was considered by the Government of Lower Canada belonging to them as much as any part of the district of St. Francis, and the inhabitants would be protected by said government against the encroachments of New Hampshire or any other government. He then suggested the propriety of the whole inhabitants, or a committee to be raised for that purpose, signing a paper, thanking Lord Gosford for the notice he had taken of them, and requesting further assistance; he also proposed that a committee be raised to report to the Government of Canada any encroachments which might be made upon them by the State of New Hampshire. He then made remarks to the meeting of a similar character, assuring the inhabitants of the protection of the Government of Canada. He also proposed that a committee be appointed to nominate suitable individuals to be recommended for the appointment of justices of the peace, which was done accordingly.

After the meeting was over, I had a conversation with said Rea upon the subject, and warned him against the course he was taking, begged him to desist, for he would only make difficulty, told him the measure the Legislature of this State had taken to assist and maintain jurisdiction over the territory, to which he replied, that the State of New Hampshire would not be so foolish as to interfere again after what he had done. I have no hesitation in giving it as my opinion, that all the difficulties which have taken place in this neighbourhood for the last two years, have arisen from the meddling and interfering officiousness of said Alexander Rea.

(Signed)

NATHANIEL PERKINS.

State of New Hampshire, Coos, ss., August 10, 1836.

Sworn before me,

(Signed)

JOHN P. HALE, Justice of the Peace.

## Inclosure 23 in No. 2.

*Deposition of Ephraim H. Mahurin.*

I, EPHRAIM H. MAHURIN, of Colombia, in the county of Coos, in the State of New Hampshire, depose and say, that about the 22d of October last, being at Colebrook, an express arrived from the Indian Stream settlement, so called, giving information that a party from Hereford, Lower Canada, had taken Mr. Blanchard, a deputy sheriff of this county, and were conveying him to Sherbrook. I started with several others, and went for the purpose of retaking him; and on Hereford Hill, so called, we met some twelve or more persons leading said Blanchard towards Mr. Rea's house, in Hereford, and on meeting them, one of our company, I think, commanded them to stop, and used some decisive language, which was promptly disapproved by Mr. Hilliard and myself, and we informed the party who had Blanchard in custody, that we wished to have no difficulty with them, that it evidently arose from the circumstance that the boundary line was not fully settled between the two governments, and that as the State of New Hampshire had for a long time claimed and exercised jurisdiction over that tract, and the claims of actual jurisdiction by the province being very recent, and we believed originating with the aforesaid Rea, we felt it to be our duty to retake Blanchard, and to protect the officers of said settlement from arrest by officers from the province, and that we should take him at all hazards, but wished to do it without any trouble or hard words with them. I then dismounted and told Blanchard to get on my horse, and he at first appearing to hesitate, I repeated the direction, when he stepped towards the horse, with a man hold of each arm, but when he got to the horse they let go, and he mounted and rode to Canaan, Vermont. Considerable abusive language was used towards us by two persons of the party, Mr. Blood and Bucher, but we told them they might say what they thought fit, as we should not be led into a quarrel with them, but should let King William and General Jackson decide the matter, and we then left them, and after a stop of about fifteen minutes at Parmelle's store, I went directly home to Columbia, a distance of twenty miles from Hereford, and I never heard of the affair of Mr. Rea's until a day or two after. I acted under no orders from any one in the part I acted, and no one that I know of, claimed any authority over another.

I have known of no "occasional acts of jurisdiction" exercised by the provincial government until the arrest of Luther Parker, and from the best information I have, these "Acts" owe their origin and support to a few outlaws at Indian Stream, encouraged by said Rea.

I have always understood that said tract was claimed by this state, by a survey made by Jeremiah Eames, Junior, Esq., more than forty years since, and more than thirty

N.

Aggression and  
Violation of Terri-  
tory by Citizens of  
New Hampshire.



X.  
 Aggression and  
 Violation of Terri-  
 tory by Citizens of  
 New Hampshire.

years ago process from the courts of this state was served on Richard Smart, who resided on said tract, and his property attached.

Coos, ss., August 9, 1836.

(Signed)

EPHRAIM I. MAHURIN.

Personally appearing—Ephraim H. Mahurin, and made solemn oath that the foregoing deposition by him subscribed is true.

Before me,

(Signed)

IRA YOUNG, Justice of the Peace.

Inclosure 24 in No. 2.

*Deposition of Rufus Brockway.*

I, RUFUS BROCKWAY, of Indian Stream settlement, in the county of Coos, and state of New Hampshire, depose and say, that, about the year 1820, I was employed by Mr. Carlisle and Dr. Turk, British surveyors, to go with them and survey Connecticut river, about the forty-fifth degree of north latitude.

We accordingly commenced our survey on the west side of Connecticut river, at the forty-fifth degree of north latitude, and run up the Connecticut river to Lake Connecticut; we then surveyed said lake; then proceeded to measure up stream, the main branch, which ran into said lake about four miles to a second lake or pond, which we also surveyed. There were three streams which ran into this second lake or pond, and we selected the westerly one, judging that to be the largest, and surveyed that up about seven miles, to a third lake or pond, being about one mile long and a half mile wide, according to my judgment. This last or third pond we also surveyed, and surveyed the largest stream which ran into this third pond, about the distance of one mile, when we came to the highland.

After we had come to the source of the last stream which we surveyed, we ascended the height of land there, and Mr. Carlisle set his compass and found the due west course, upon which course we then continued our survey, and ran till we struck a small stream, which proved to be Indian Stream. We ran across that stream and continued our course till we intersected another stream, large enough for a mill stream, which we found was Hall's Stream. When we came, as above stated, to Hall's Stream, Dr. Turk remarked that it was of no use to proceed any farther, as there could be no doubt that this stream was the one which extended farthest to the northwest, and we had better return immediately to the 45th degree of north latitude; and he directed the guide to proceed to the nearest inhabitant, which he did, and we all went to the house of one Joseph Weston, in the township of Hereford, in the province of Lower Canada, where we tarried all night, and the following day returned to the house of Col. Eames, near the Connecticut river, about one mile south of the 45th degree of north latitude, where Dr. Turk settled with the men who accompanied him on the expedition.

In May, 1821, I received a letter from Dr. Turk, informing me that he wished me to accompany him on another surveying expedition. I immediately went to Col. Eames, as requested in the letter, and there met Dr. Turk, who told me he wanted me to go with him and survey Leach's Stream, and see if that did not extend further to the north-west than did Hall's Stream. Accordingly we went, and commenced surveying Leach's Stream, and continued it till we came to its source. We then took a due east course, and proceeded till we intersected Hall's Stream, a little above where we intersected on the former route, when we were surveying westerly. We still found that at the place where we now intersected it, it was quite a large stream, large enough for a mill stream. Dr. Turk again remarked, that Hall's Stream was the one which extended farthest to the north-west, and that it was of no use to proceed any farther, and directed the guide to lead them to Col. Eames, where he again settled with the men who accompanied him.

On the following morning Dr. Turk remarked to me that, when we first surveyed Connecticut river, we had no means of ascertaining that the stream running into the second lake or pond which we took for the largest, was actually so, as we did not survey but one of them, and he wanted to go and survey another of them, and see if we could, from the source of that, run a due west course north of Hall's Stream. Accordingly, we went to the second lake or pond mentioned in our first surveying expedition, and commenced running the easterly stream, which emptied itself into the second lake or pond aforesaid, and surveyed it to its source. We then took a due west course, and ran on it till we again intersected Hall's stream, not far from the places where we formerly intersected it on our two former expeditions. Dr. Turk again remarked as he had twice before, that it was of no use to proceed any further, for Hall's Stream was the one which came the farthest from the northwest, and must ultimately be the prevailing stream—and we returned to Col. Eames, and Dr. Turk settled with me.

(Signed)

RUFUS BROCKWAY.

State of New Hampshire, Coos, ss. August 3, 1836.

Then Rufus Brockway, above named, personally appeared and made oath that the above deposition by him signed, is true.

Before me,

(Signed)

JOHN P. HALE, Justice of the Peace.

Inclosure 25 in No. 2.

*Deposition of Hiram A. Fletcher.*

I, HIRAM A. FLETCHER, of Colebrook, in the county of Coos, and State of New Hampshire, counsellor-at-law, depose and say, that some time in the latter part of October, A. D. 1835, one Clarke J. Haynes, of Indian Stream, came to Colebrook where

I then and now reside, and informed me that Richard J. Blanchard, of Indian Stream, deputy sheriff, had been arrested on a bench warrant, or a warrant issued by Alexander Rea, of Hereford, in the province of Lower Canada, Esquire, and that the officer and his assistants were taking him to Sherbrook, or some other place in the province, for trial, for having received the appointment and assuming to act as a deputy sheriff at Indian Stream, under John H. White, Esquire, sheriff of said county of Coos.

Said Haynes told me and others, that notice had been given, in Clarksville and Stewartstown, of the arrest of said Blanchard, and that a great many had gone to rescue him, and that his object in coming to Colebrook was to give this information.

I used my endeavors to raise a party to join in the pursuit. Ephraim H. Mahurin, Esq., Milton Harvey, a deputy sheriff, James M. Jewitt, Horatio Tuttle, and I, immediately started off. We were all armed and supplied with ammunition. Said Mahurin carried a double-barrelled gun, Harvey a horse-pistol, Jewitt a brace of pistols, Tuttle a musket and bayonet, and I, a rifle. We went up the river road through Stewartstown, crossed the bridge near Canaan corner, Vermont, and then took the road leading to Indian Stream, supposing that by so doing we should meet the party having Blanchard in custody, before they could get over Canada line with him; but after we had got about half a mile we met a number of men from Clarksville and Indian Stream, most of all of them were on foot without fire-arms, running very fast, who informed us that they had come up with Blanchard but could not rescue him, as the party having him in custody was about their number, and armed; that they had crossed Hall's Stream with him, and were proceeding on towards 'Squire Rea's as fast as possible, and that the only way he could be retaken would be by going back to Canaan corner, and taking a road which intersects with the road they would travel in going from Hall's Stream to Mr. Rea's, and meet them on the road. We all returned to Canaan, and there we divided, a part of those on foot and in carriages, went up the road leading from Canaan to Canada, and those mounted went north, in an old road or path which intersects with the said road leading from Hall's Stream to said Rea's. It was at or near this place that Blanchard was taken, as I am informed, but I was not of the party that took him. I came up with this party that retaken Blanchard before they had returned to Canaan corner, but on which side of Canada line it was that joined them, I neither know nor care. When we got back to Canaan corner, there were a great many people assembled from Colebrook, Stewartstown, Clarksville, and Indian Stream, and a great many more arrived there soon afterwards. Many of them were armed and equipped like the New Hampshire militia. So far as I could judge, there was a general rejoicing that Blanchard had been retaken. I heard some one say to William M. Smith, then a deputy sheriff of Coos county, that if he had been with the party that rescued Blanchard, he could have recaptured his former prisoner John H. Tyler, who had been arrested a short time before by said Smith, at Indian Stream, and was rescued. Smith said he should like to get him, if he could, without exposing himself, or something to that effect: I think he then offered a specific reward for him, but do not now recollect the amount. It was suggested that the officer who had suffered Blanchard to be rescued, and his whole party, John H. Tyler among the rest, had gone to 'Squire Rea's to condole with that functionary on the solemn occasion. I was then called to supper, and whilst I was at the table, Joseph Wiswell, of Clarksville, Esq., came into the room and said some individuals were going after John H. Tyler, and desired me to write an advertisement for said Smith, offering a reward. I told him I came away from home before dinner and was a meal behind-hand, and could not then stop to write one, but stated to him what I thought was necessary to set forth in the advertisement, and he said that would do,—he could write it. After supper I went out and shot at a mark with Gideon Tirrill, Esq., James M. Hilliard and others. I should think we were engaged in this amusement about an hour; it was then so dark we could not well see, and for that reason quit. While engaged at firing at a mark, I heard a report of guns in the direction of Rea's, but I then thought they could not be so far off, as the distance is about a mile and a half. I supposed they were discharged to prevent those accidents that might happen in carrying them home loaded, as many of the guns had been discharged after retaking Blanchard, to avoid such an event. Some time after we had done shooting at the mark, I heard some one hollowing up the road towards Mr. Rea's. I went to the corner of Parmele's store and saw two or three waggons coming down the road very fast, filled with men. I supposed they had got John H. Tyler, as I heard them say "we have got him,"—I might have shouted "hurrah for Jackson," as Mr. Rea states in his deposition. I think I did, but I am confident I did not add, as he states in his deposition, "here is old Rea, we have got the damned old rascal," as I did not distinguish any person sufficiently to recognize them till the waggon in which Mr. Rea was passed me. It was well nigh night-fall at the time, and had it been ever so light I could not distinguish him from others in the waggon at the distance they were off at the time abovementioned, as I am very nigh-sighted.

When I found that Mr. Rea was captured instead of Tyler, I went towards the stable for my horse, and a number of persons followed after me, but who they were I cannot positively state, and said something must be done with Rea, and requested that I should make out some precept or advice to some course that would hold him to answer for his conduct in regard to the Indian Stream difficulty. I told them all, that I could not do any thing of the kind, although in my judgment Mr. Rea had acted more like a judicial monster than like one of His Majesty's justices and conservators of the peace, in all his doing, so far as respected the arrest and examination of one Luther Parker, Esq. for an alleged offence, mentioned in said deposition of said Rea, and also in respect to the

X.

Aggression and  
Violation of Terri-  
tory by Citizens of  
New Hampshire.



X.  
 Aggression and  
 Violation of Terri-  
 tory by Citizens of  
 New Hampshire.

arrest of said Richard J. Blanchard, and advised them to dress his wounds, wash him up, and send him home. I told them they had no right to take him any where, even in New Hampshire, much less to seize him in Canada and transport him over the line. It was admitted by all the bystanders that the capture of Rea might be illegal, but they assigned as a reason for so doing, that in attempting to take Tyler, Rea and his party resisted, and pelted them with stones, and, in self-defence, they took Rea as a kind of prisoner. I came away from Mr. Parmele's directly after, and I did not see Mr. Rea that night. I did not hear any one say or intimate, nor did it enter into my mind, that this party then went over the line and took Rea, were going or had gone to take him, but I did hear it said again and again that they were going to take John H. Tyler, for whom a reward had been offered by said Smith, as abovementioned.

(Signed) HIRAM A. FLETCHER.

State of New Hampshire, Coos, ss. August 3, 1836.

Sworn to before me :

(Signed) JOHN P. HALE, Justice of the Peace.

Inclosure 26 in No. 2.

*Deposition of Milton Harvey.*

I, MILTON HARVEY, of Colebrook, in the county of Coos, and State of New Hampshire, depose and say, that in April, 1833, I was appointed by John H. White, Esq. a deputy sheriff for the county of Coos, that in 1834 I served a warrant in Indian Stream territory on a person residing there, by the name of Barrill, for an offence alleged to have been committed there, brought him to Colebrook for examination. No resistance was made. I went there in 1835 to serve several writs on inhabitants of said territory. It was in February or March of that year. Resistance was then made to my serving writs by attaching property. The persons against whom I had process, and others accompanying them, claimed to be independent, to be an independent Government, not belonging to the Governments of Great Britain or the United States, independent of either until the line was settled. I was in company with William M. Smith, when he arrested John H. Tyler, and when said Tyler was rescued from his custody by a number of the inhabitants of Indian Stream territory, they then claiming to belong, and that Indian Stream territory belonged to the province of Lower Canada. I have no recollection of ever having heard before that, that said inhabitants claimed to belong to the province of Lower Canada, or that the Canadian people or Government claimed any jurisdiction over said territory and inhabitants. In October last, when Richard J. Blanchard was taken and carried from Indian Stream settlement by a party of Canadians and others, I went in company with Ephraim H. Mahurin and others, for the purpose of rescuing said Blanchard. He was rescued and brought back to Canaan corner, Vermont. The carrying said Blanchard was considered a very great outrage, and the people collected for his rescue were very indignant and very considerably excited, and expressed a determination to rescue him if possible. After our return to Parmelly and Joy, in Canaan, a party from there to go and take John H. Tyler, who had been arrested by William M. Smith, and rescued as I have before stated. Smith offered five dollars reward for his apprehension and delivery to him. I did not hear the name of Alexander Rea mentioned in connection with said party going to Canada, nor did I hear any reward offered by any individual for bringing said Rea out, nor did I hear any wish or intention expressed that said Rea should be brought out, nor did I know of any such intention, nor I believe any existed at the time said party stated after said Tyler. I left Canaan before said party returned.

(Signed) MILTON HARVEY.

Coos, ss. August 8, 1836.

Personally appearing, Milton Harvey, and made solemn oath that the above deposition by him subscribed is true.

Before me :

(Signed) IRA YOUNG, Justice of the Peace.

Inclosure 27 in No. 2.

*Deposition of John Harriman.*

I, JOHN HARRIMAN, of Stewartstown, in the county of Coos, and State of New Hampshire, depose and say, that I now live, and for the last sixteen years have resided in said Stewartstown, within about four miles of Indian Stream settlement, except about five or six years of the time which I have resided in Clarksville, a town yet nearer to said Indian Stream settlement. During said sixteen years, I have been well acquainted with the inhabitants of said Indian Stream territory, and for the greater part of the time resorted there altogether for the purpose of procuring my lumber sawed at the saw-mill, and my grain ground at the grist-mill, and occasionally for other purposes. During the whole of said period, I never knew of the authority of the province of Lower

Canada, or of any authority except the State of New Hampshire, exercising or attempting to exercise any jurisdiction there, until some time in the year 1835. I then heard, for the first time, that some individuals began to talk about the territory belonging to the province of Lower Canada. In the course of that year, in the month of September, I think, I understood, casually, that there was to be a meeting in the territory for the purpose of nominating individuals to be recommended to the British authority for the appointment of magistrates. This meeting was to be holden on the Sabbath, and as I learned there was an adjourned meeting from one holden the day previous, I went to attend said meeting from motives of curiosity solely, and when I arrived there, I found the principal man of said meeting was one Alexander Rea, of the town of Hereford, in the Province of Lower Canada. All the principal measures adopted or advocated were brought forward by this individual. I well remember that said Rea, at said meeting, frequently assured the inhabitants there assembled in said meeting, that they should be protected by the Government of Lower Canada against the encroachments of New Hampshire, and he recommended to them to raise a committee to report to the Government of Lower Canada all the encroachments of New Hampshire, as fast as they should occur, which was accordingly done. I further depose and say, that during said time, I have known the inhabitants of said Indian Stream territory frequently to resort to Stewartstown aforesaid, for the purpose of being joined in marriage, but I have never known or heard of said inhabitants, any or either of them, going to Canada or any place except New Hampshire for the purpose of being married. I further depose and say, that I do not know where the line established by the committee of the New Hampshire legislature in the year 1789 or 1790 is, except by general reputation, which always has been that the line extended along the highlands dividing the waters of the Atlantic from the St. Lawrence, until the intersection of said highlands with the head of Hall's Stream, and the jurisdiction of New Hampshire has been considered and reputed as extending thus far. I am acquainted with the general reputation of said Alexander Rea, and have no hesitation in saying it is not good.

(Signed) JOHN HARRIMAN.

State of New Hampshire, Coos, ss. August 8, 1836.

Sworn to before me : (Signed) JOHN P. HALE, Justice of the Peace.

I further depose and say, that in April, 1836, I saw and had a conversation with one Flanders, son of Zebulon Flanders, of Hereford, Lower Canada. He is a young man of about eighteen or twenty years of age, and appears to be a fair, candid young man. He said he was at Alexander Rea's house the day in October last, that Richard J. Blanchard was rescued by a party from New Hampshire, standing near Rea's house, before said Rea was taken and carried to Canaan, and when he came out of his house with Zacheus Clough and Barnard Young, said Rea had received information that two men had come over the line from the United States and were not far from Rea's house, as said Flanders informed me he understood. Rea said to Young and Clough "when I tell you, hitch upon them," meaning, one Miles Hurlburt and E. C. Aldrick, who were then below said Rea's house. Rea passed hastily along, as said Flanders represented, that Rea advanced upon Hurlburt and Aldrick and they retreated several rods, he said, Flanders being in sight of them at the time. When said Rea was at Parmelee and Joy's, at Canaan, I heard a conversation between Alexander Rea and the said E. C. Aldrick. Said Aldrick said to Rea, "don't you take my horse again by the bridle when I am in the highway peaceably;" Rea answered, "that he had a right, as it was a riot;" Aldrick said, not "as it took more than two by the laws to constitute a riot." Rea replied "it was approaching a riot," or something to that effect, which was all I heard upon the subject.

(Signed) JOHN HARRIMAN.

State of New Hampshire, Coos, ss. August, 1836.

Sworn to before me : (Signed) JOHN P. HALE, Justice of the Peace.

Enclosure 28 in No. 2.

*Deposition of Ephraim H. Mahuren.*

I, EPHRAIM H. Mahuren, of Colombia, Coos county, New Hampshire, depose and say that, in August last past, I was employed by General Joseph Low, and others, the Indian Stream Commissioners, as a surveyor to examine and survey the sources of the several branches of Connecticut river and the heights of land adjacent, as set forth in the survey of the States Commissioners in the year 1789. That accompanied by General Ira Young, James M. Hilliard, and others, as packmen, &c., I proceeded to Lake Connecticut, and from thence to the second lake so called which we explored, and the various small streams leading into it; from thence we crossed the highlands to the easterly line of the State of New Hampshire, which line we followed, crossing many small streams running eastwardly into the Magalloway River, which is a large branch of Androscoggin River, until we reached the north-easterly corner, which we found to agree with Colonel Jeremiah Eames' Journal of the survey in 1789, being marked

X.

Aggression and  
Violation of Terri-  
tory by Citizens of  
New Hampshire.



X.

Aggression and  
Violation of Terri-  
tory by Citizens of  
New Hampshire.

on a birch tree, and the marks on the same corresponding as far as legible from age, with those noted in the journal of said survey. We then followed his line, and found the points of compass and distances to agree with his journal and field book for about eight miles, which led us to a point considerably north and west of the upper lake or pond, and also of all the waters running into the same. We found two or three very small brooks running into said pond from the north, which we judged, were none of more than one half mile in length, and the lands to the north very high, and the heights lying in rather a circular form, in a northerly direction. We then run and marked a line due west to Indian Stream, which we found, where we crossed it sufficiently large for mills at a good pitch of water, and then run, measured, and marked a line due west from thence to Hall Stream on its easterly branch, being much the longest branch of said stream, and found the distance between the streams to be three and one half miles and ten rods.

We then run on three miles west, crossing two small brooks, evidently leading into the east branch of Hall Stream, and over some high land, and at the end of three miles, came to waters leading into Clifton River, in Lower Canada, at the point marked "C." on the plan exhibited.

We then surveyed the stream from the mouth of Indian Stream to the mouth of Hall Stream, and then surveyed Hall Stream from its mouth to the source of the easterly branch, and found it to be eighteen miles and twenty-two rods in length, and surveyed Indian Stream from our west line to its source.

On the accompanying plan, the river between the mouths of Indian and Hall Streams, the whole of Hall Stream, and that part of Indian Stream northerly of our west line, are laid down from actual survey and admeasurement. Indian Stream from said line to its mouth, and the lakes and waters leading into and from them, as also Perry Stream and Magalloway River, and their branches are laid down from examination, and not from actual survey and admeasurement.

From our examination, it is rendered certain, that the States committee, who run the line in 1789, mistook the waters of Magalloway, for waters running into the St. Francis; and supposed they were on the highlands, according to the Treaty, when, in fact, they were on the highlands dividing the waters of Magalloway and Connecticut rivers; and that between the line then marked, and the actual highlands, according to the Treaty, lies a large tract of land on the waters of said Magalloway, which, according to any reasonable construction of the Treaty, must be within the United States, and appeared to be valuable land.

The heights of land contemplated by the Treaty, as laid down on the plan, are one continuous chain of mountains, running about north-east and south-west, as far as we could see to the north-east, but are not as high when you get near the point "C." on the plan. They are probably not laid down so far from the line run by the committee on the plan, as they ought to be, except at the point marked "D." where the location is exact.

The lands around the upper lake and on the easterly line of the State, to the corner, and on the line on the highlands, as run by the committee in 1789, are of very little value. The lands adjoining Lake Connecticut and between said lake and the mouth of Indian Stream, and around Back Lake, are a considerable portion of them good lands for cultivation, and settlements are interspersed in various directions.

The lands on the easterly side of Indian Stream, for some distance from its mouth, nearly to its source, are various in quality, but a considerable portion of good land, and there are some extensive intervals on said stream. The lands between Indian and Hall Streams, are more uniformly of the first rate quality of upland, than any I have seen in the same quantity together any where in this country; and I believe there is no town in this part of the country where the upland is so uniformly good for cultivation.

(Signed) EPHRAIM H. MAHUREN.

Coos, ss. October 25, 1836.

Personally appearing, Ephraim H. Mahuren, and made solemn oath that the foregoing deposition by him subscribed is true.

Before me,

(Signed)

IRA YOUNG, Justice of the Peace.

Inclosure 29 in No. 2.

*Deposition of Ira Young.*

I, IRA YOUNG, of Colebrook, in the county of Coos, and state of New Hampshire, do depose and say, that in August, 1836, at the request of Gen. Joseph Low, and Col. John P. Hale, I accompanied Ephraim H. Mahurin, Esq., who had been employed by them as surveyor, to ascertain the north-east and north boundaries of the state of New Hampshire, and also to find the line, if any, run by a committee appointed by the Legislature of said State, in 1789, composed of J. Cram, Jeremiah Eames, Col. Hoit, and others. We repaired to Indian Stream territory, and after having explored the lake above Lake Connecticut or second lake, so called, we went east to the line, between the states of Maine and New Hampshire, and followed that until we came to the birch tree, which was marked by said committee, as the north-east corner of the state of New Hampshire, and found upon that tree ancient marks, similar to those described to have been put there by said committee, some of which were "1789," "J. E.," "M. 54." That said

tree stands some distance from the top of the range of highlands upon which it is situated. James M. Hilliard and myself went to the top of the height, to see if the waters running into the St. Lawrence, Canada, run into the valley between that height and the height next beyond, northerly. That we ascertained from that examination, and other information, that the stream in said valley, which there entered easterly, was a branch of the Magalloway, which empties into the Androscoggin river. That we returned to said birch tree, and from thence we followed and measured the line made and spotted by said committee, I carrying one end of the chain six miles. That said line was on the highlands south of said Magalloway branch, and found the courses and distances indicated by said committee, in 1789, to be correct. We thought it unimportant to measure any further. We chained no further; but followed said line, which was very distinct in most places, although made so many years since. Said line led us within five or six rods of a circular pond, from which the waters run through the second lake into Lake Connecticut, and then into Connecticut river. Said pond is about one mile in circumference, and is sometimes called the third lake, and is surrounded by quite highlands. Said Hilliard and myself went northerly from said pond to the top of the heights. We judged it from six to eight miles from that height to the next height northerly, and we were satisfied from our examination, the branch of the Magalloway before spoken of as running in the valley, north of said birch tree, continued on in the valley north of said pond, running from the west tending eastwardly.

From the said pond to said first heights, is perhaps one hundred rods; perhaps one mile. From thence said Hilliard and myself went westerly, and in the course of from one to four miles, we crossed three or four branches of the Magalloway, small streams, running northerly into said valley, northerly of said pond. In that course we came upon a very large and extensive piece of flat land, out of which some of the branches of the Magalloway flowed, and also a branch of the Indian Stream, all running northerly. Said branch of Indian Stream, and one branch of Magalloway are near together.

We went north of all the waters that flowed into said pond; but came to the conclusion, to what we could see, that some waters running into said pond, took their rise in the south part of said flat land; and also that some of the Magalloway waters rose south of the waters running into said pond.

We found the rest of our party, who had followed said committee's line, some four or five miles west of said pond, from whence we took a due west course until we struck Indian Stream, where it was something of a mill-stream, some one and a half to two rods wide, and spotted our line west to that place, and from thence returned home.

The distance from the height on which said birch tree stands, beforementioned, as designated by said committee, in 1789, as the north-east corner of the state, to the next height north, is, as near as I could calculate, without measuring, from six to eight miles. The heights last mentioned tend easterly and westerly.

(Signed) IRA YOUNG.

Coos, ss., October 22d, 1836.

Personally appearing, Ira Young, and made solemn oath that the foregoing deposition by him subscribed is true.

Before me, (Signed) EPHRAIM H. MAHURIN,  
Justice of the Peace.

#### Inclosure 30 in No. 2.

#### *Deposition of John Hughs.*

I, JOHN HUGHS, of Canaan, in the county of Essex, and State of Vermont, depose and say—

That some time in the year A. D. 1820 or 1821, I was employed by Dr. Turk and a Mr. Carlisle, British surveyors, to go with them and survey the Connecticut river, from the forty-fifth degree of north latitude to its source. Accordingly we commenced at Colonel Jeremiah Eames', in Stewartstown, and surveyed up the Connecticut river, on its east side, till it is intersected by Hall's Stream, when we crossed over to the other side and ran up to the first lake, which is called Lake Connecticut, which lake we surveyed. The river from said lake up to the middle or second lake, which we also surveyed, and surveyed the stream which appeared to be the largest, which led from the third pond, situated about five or six miles above the second pond, and about one mile long, and about one-half or three-quarters of a mile wide.

There were two streams running into this pond, both of which we measured, one was less, and the other more than half a mile long.

When we arrived at the source of the largest brook, which ran into the pond, and could find no running water any further up, Mr. Carlisle remarked, that Judge Chipman had told them to run up to the last drop of running water in the main branch of Connecticut river; and that having done that, we might put up our chains as there was no further use for them, which we accordingly did.

After we had surveyed to the source of these waters, as I have stated, we returned to the camp, which was at the last-named little pond, at the head of Connecticut river, as now called; and one Brockway, who accompanied us, told the British surveyors, that the St. Francis waters were just over the hill, upon the side of which we had surveyed. I then asked said Brockway, how long he had been in this country, and he replied

X.

Aggression and  
Violation of Terri-  
tory by Citizens of  
New Hampshire.



X.

Aggression and  
Violation of Terri-  
tory by Citizens of  
New Hampshire.

eighteen months. I made answer that I had hunted over that very country for more than twenty years, and that I knew the St. Francis waters were not to be found within eight miles. We then returned to the source of the stream which we had surveyed, and there the surveyors made marks upon the trees and set their compass, and indicated a due west.

Upon which we went without measuring the distance till we intersected the middle branch of Indian Stream, at a place large enough for a small mill stream; so large that we were under the necessity of cutting a tree to make a bridge to pass over the same.

When we intersected the stream, Dr. Turk and Mr. Carlisle went away some rods distance out of hearing, but not out of sight, and tarried some time, when they returned and told me to pilot them the best and nearest way to Colonel Eame, which we accordingly did. This was all I had to do with surveying about the line between the United States and Canada. On this expedition we were accompanied by no American commissioner or surveyor, nor indeed by any American, except myself and a few others who were hired by them as assistants.

I was seventy years old last May.

(Signed) JOHN HUGHS.

State of New Hampshire, Coos, ss. August 4, 1836.

Sworn to before me, (Signed) JOHN P. HALE, Justice of the Peace.

Inclosure 31 in No. 2.

*Deposition of Samuel Danforth.*

I, SAMUEL DANFORTH, of Indian Stream, in the county of Coos, and State of New Hampshire, depose and say, that I am fifty-two years of age, and for the last sixteen years have resided at Indian Stream, and during all that time I never knew any other government than the State of New Hampshire exercise, or claim to exercise, any jurisdiction over said territory in any other way or manner, either by sending judicial process there to be served, or in any other way, till one Alexander Rea came in there, claiming the territory as belonging to Canada, about the middle of June, A.D. 1835. While I have lived there, the inhabitants, when they killed a wolf, or any other creature for whom a bounty is offered by the laws of New Hampshire, have uniformly gone into New Hampshire for said bounty, and have uniformly received it.

About a year since, as near as I can recollect, said Alexander Rea addressed the inhabitants of said Indian Stream at a meeting holden at the School-house, and as I am partially deaf, I did not hear all he said, but remember distinctly, that one object of Rea was to have some individuals recommended by the inhabitants for the appointment of Justices of the Peace.

(Signed) SAMUEL DANFORTH.

State of New Hampshire, Coos, ss. August 9, 1836.

Sworn to before me, (Signed) JOHN P. HALE, Justice of the Peace.

Inclosure 32 in No. 2.

*Deposition of Horace Loomis.*

I, HORACE LOOMIS, of Colebrook, in the county of Coos, and State of New Hampshire, depose and say, that in the year of our Lord, 1825, I was appointed a deputy of the sheriff of said county of Coos, and that year, or the one ensuing, I had a writ put into my hands against Clark J. Haynes, and about the same time two or three against Rufus Brockway, and also one writ against John McConnell, all residents in Indian Stream territory, and also divers writs against several others resident in said territory; all of which precepts I served, some by attaching property, and some by arresting the body of the defendant, and at no time, nor on any occasion, did I hear any objection made to the service of any or either of said processes by any one on occasion of any real or pretended claim of the Government of Lower Canada or any British authority, to have any jurisdiction over said territory.

And I further depose and say, that I continued to act as deputy sheriff, for said county, until May, 1834, and during the whole time of my so being deputy sheriff as aforesaid, I occasionally, from time to time, served process in said territory or settlement as they were put into my hands, and I never heard, during the whole of said period, any claim of the British authorities to have control or jurisdiction of said territory or settlement. I further depose and say, that sometime in the year 1826 or 1827, I had a writ against said Brockway, and made a prisoner of him, but he was rescued from me by some of the inhabitants of the settlement.

I returned the writ to court with a return thereon, stating the facts precisely as they took place. Execution thereupon issued, was put into my hand for service, and I collected a sufficient force in the county, went into the territory and made service of the same by arresting said Brockway, and bringing him away, and committing him to jail in Lancaster, in this county.

I further depose and say, that I have, on other occasions, made service of executions on the inhabitants of said territory, by attaching and selling personal property.

(Signed) HORACE LOOMIS.

State of New Hampshire, Coos, ss. October 7, 1836.

Then the said Horace Loomis personally appeared and made oath that the above deposition by him subscribed is true.

Before me,

(Signed)

IRA YOUNG, Justice of the Peace.

X.

Aggression and  
Violation of Territory  
by Citizens of  
New Hampshire.

Inclosure 33 in No. 2.

*Deposition of James M. Hilliard.*

I, JAMES M. HILLIARD, of Colebrook, in the county of Coos, and State of New Hampshire, husbandman, depose and say, that some time about the last of October, A.D. 1835, Asa Parker, of Indian Stream Settlement, came to my house and informed me that Richard J. Blanchard, of said Indian Stream Settlement, had that morning been taken from his house by some people from Canada, and that they were then conveying him, said Blanchard, to Sherbrook, in said Canada, and that he wanted me to go and help release said Blanchard. I at first declined, but after he left I concluded to go, got my horse, and started in company with Samuel Weeks, Jun. of said Colebrook, Horatio Tuttle, of said Colebrook, and Luther Parker, of Indian Stream. After proceeding about two miles, we were joined by Thomas B. Blodget and Thomas Piper, both of Stewartstown in said county of Coos. We all proceeded to Canaan, in Vermont, to the store of Parmelee and Joy, where we tarried a short time, and said Thomas B. Blodget rode on towards Indian Stream, and in a few minutes returned in company with John M. Harvey, and told us that the Canadians had Blanchard in their custody, and were to pass over Hereford Hill, about two miles distant from the store where we then were, and that we should probably meet them at the hill if we rode there immediately. Said Blodget rode by towards Hereford Hill without making any stop at the store, and called upon us to follow him, and myself, said Samuel Weeks, Jun., Thomas Piper, Horatio Tuttle, and Ephraim H. Mahuren followed after said Blodget. When we came up with the party who had possession of said Blanchard, I was in advance of the party a few rods, and rode up to those who had the custody of said Blanchard, and asked them if they had not got Blanchard, our sheriff; one of the party answered that they had—they had a warrant against him as one of the King's subjects. I answered that that was not the case, he was a citizen of this State, and that they had no right with him.

They replied, that he was taken by them on the soil of Canada. To which they were answered, that he was taken from our State, that he was one of our officers, that they had nothing to do with him, and they must give him up.

They replied that they should not give him up. I told them he must be given up peaceably, or we would take him. Ephraim H. Mahuren then told them that we did not wish for any difficulty or disturbance, but we must have their prisoner, and thereupon dismounted and went along to Blanchard, took hold of him and told him to get on to his, (Mahuren's) horse, at the same time leading him along to his horse, the Canadians holding on to him till he got to the horse, when they let go their hold, and Blanchard mounted the horse and rode off. Our party had previously been joined by Miles Hurlburt and Joseph P. Wiswell, but Luther Parker had not gone with us farther than the store of Parmelee and Joy. This was all the violence that was offered or threatened to any of the party who had the custody of Blanchard, except some threats made use of by one Horatio Tuttle, which were promptly discountenanced by said Ephraim H. Mahuren and myself, the remainder of the party saying nothing. We then returned to the store of Parmelee and Joy with said Blanchard.

After we had been at the store of said Parmelee and Joy about an hour and a half, it was proposed by some one to go over on to the Canadian side and take one Tyler, who had previously been arrested by one William M. Smith, a deputy sheriff of Coos county, and had made his escape into Canada, a reward having been offered for his apprehension by said William M. Smith, by advertisement. To this proposition I replied, they had better not go, Mr. Mahuren having left the store for his own home previously, and I tried all I could to persuade them not to go, but they went, and after having been absent about an hour they returned, bringing with them, not said Tyler, but one Alexander Rea. There were none who went on this last expedition after Tyler, and returned with Rea, that were with us when we took Blanchard, except Miles Hurlburt and Joseph P. Wiswell.

I further depose and say, that I never heard Rea's name mentioned in connexion with this party going into Canada, till after they returned with him in their possession, Tyler being, as I understood, the sole object of pursuit.

(Signed)

JAMES M. HILLIARD.

State of New Hampshire, Coos, ss. August 1, 1836.

This said James M. Hilliard personally appeared and made oath that the above deposition by him subscribed is true.

Before me :

(Signed)

JOHN P. HALE, Justice of the Peace.



X.

Aggression and  
Violation of Terri-  
tory by Citizens of  
New Hampshire.

Inclosure 34 in No. 2.

*Deposition of James Mooney.*

I, JAMES MOONEY, of Stewartstown, in the county of Coos, and State of New Hampshire, depose and say, that in the year 1835, I was Captain of the 6th company of the 24th regiment of Militia, and continued to hold said office till June of the present year, and had command of the detachment of said regiment stationed at Indian Stream territory, in November 1835, which detachment there continued till February 18, 1836.

On the 21st day of October, A. D. 1835, Clark J. Haynes came to my house and notified me, that a mob from Canada had been over the line, and had taken Richard J. Blanchard, a deputy sheriff of said county of Coos, and were then carrying him into Canada, and that said Blanchard wanted me to raise a force and rescue him.

I asked said Haines if he knew the number of those who had Blanchard. He replied he did not. I then told said Haines, that I was not the proper authority to apply to, but as Colonel Young, commander of the regiment was absent, and the Lieutenant-Colonel was fifty or sixty miles distant, I would raise what force I could, and risk the responsibility of rescuing said Blanchard. The news of the abduction of said Blanchard excited very general indignation through the neighbourhood, and I sent word to those residing in my neighbourhood to turn out; said Haines went on to Colebrook to notify the inhabitants there, and request them to turn out. There was accordingly a very general turn out, and a strong determination expressed to rescue said Blanchard at every hazard. I was not present when said Blanchard was rescued, but I first saw him at the store of Parmelee and Joy in Canaan, Vermont, or that immediate vicinity. After we had been some time at said store, there was some talk about going into Canada again, and retaking one John H. Tyler, who was said to have been previously arrested by one William M. Smith, a deputy sheriff of said county of Coos, and rescued from him by a mob from Indian Stream. There was also an advertisement of said Smith shown at the time, offering a reward of five dollars for the apprehension of said Tyler. Accordingly, different parties left the said store, and went to Canada after said Tyler. There was no other object that I heard or thought of, named by any of those who then went into Canada, except the apprehension of said Tyler. The idea of taking Alexander Rea, or any one else except said Tyler, was not, to my knowledge, suggested or thought of.

I was not with the party that took said Rea, but when I arrived there, I saw him travelling as fast as he well could towards the woods, and Ephraim C. Aldrick pursued him. He was brought from the woods, and put into a waggon, and brought down to Canaan corner, in Vermont. I was not at this time in the employ of the State, nor in the exercise of any military command.

The only time when I exercised any military command in my life, except at our annual company training and regimental musters, were from the 4th to the 6th of August, A. D. 1835, both inclusive, having been ordered to rendezvous with my company at Stewartstown, for the purpose of rendering to John H. White, Esq., sheriff of said county, such assistance as might be necessary to enable him to serve process in Indian Stream territory, our officers having been of late resisted there, and more serious resistance having been threatened after the interference of Alexander Rea. The other occasion subsequent to the abduction of said Blanchard, and also subsequent to the time said Rea was brought to Vermont in the manner above related, when I was stationed at said Indian stream, in command of a detachment of the 24th New Hampshire militia as before stated. I have lived in Stewartstown about fifteen years, and never knew or heard of any other authority claiming to have jurisdiction over Indian Stream territory, except the State of New Hampshire, till after I understood that, some time in the year 1835, one Alexander Rea had been claiming the territory as belonging to Lower Canada.

(Signed)

JAMES MOONEY.

State of New Hampshire, Coos, ss. August 8, 1836.

Sworn to before me,

(Signed)

JOHN P. HALE, Justice of the Peace.

No. 3.—*Viscount Palmerston to H. S. Fox, Esq.*

(Extract)

*Foreign Office, July 22, 1837.*

WITH reference to your despatch of the 25th of January last, relative to the outrage which was committed in October, 1835, within the Canadian Frontier, by certain citizens of the State of New Hampshire,—I have to instruct you to point out to the American Secretary of State, the unjustifiable violation of territory indisputably British, which was committed on the occasion referred to, to express a conviction that such an act must incur the disapprobation of the President, and to say that, if it has not been punished, its impunity must have arisen from some insurmountable difficulties of constitutional action.

You will draw the serious attention of the American Government to the unfortunate consequences which must inevitably follow a recurrence of similar proceedings, and you will declare in a friendly but firm manner, that Her Majesty's Government will feel it their duty to use all means in their power to protect from aggression the Subjects of Her Majesty, and the territories of Her Majesty's crown; that force will be repelled by force; and that the responsibility of all the evils which may ensue from such collisions must rest on the heads of those who become the aggressors.

## XI.

Correspondence between the Government at Washington and the State of Maine, on the North-eastern Boundary; the Arrest and Imprisonment of Ebenezer Greely; and the projected Railway between Quebec and St. Andrews. Also Correspondence between the Department of State and the British Legation, on the Quebec and St. Andrew's Railway.—1837.

## XI.

North-eastern  
Boundary.

Arrest and Impri-  
sonment of  
E. Greely.

Projected Railway  
between Quebec  
and St. Andrews.

*H. S. Fox, Esq. to Viscount Palmerston.—(Received*

(Extract)

*Washington, November 24, 1837.*

I HAVE further the honor to inclose, in the present Despatch, a set of printed Documents relating to the Boundary Question, which were communicated by the President to the House of Representatives, at the close of the late extraordinary Session of Congress. These documents comprise a series of correspondence between the President's Government and the State Government of Maine, upon the subjects, severally, of the Boundary question in general,—of the arrest and imprisonment of Ebenezer Greely,—and of the projected Railroad between the Cities of Quebec and St. Andrews. The correspondence between the department of state and this legation, upon the subject of the aforesaid railroad, is also printed in this set of Documents.

*Enclosure.*

*MESSAGE from the President of the United States, transmitting the information required by the resolution of the House of the 13th instant, upon the subject of the Northeastern Boundary of the United States.*

To the House of Representatives of the United States,

I HEREWITH transmit to the House of Representatives a report from the Secretary of State, accompanied by copies of the correspondence requested by their resolution of the 13th instant.

*Washington, September 26, 1837.*

M. VAN BUREN.

*Department of State, Washington, September 25, 1837*

THE Secretary of State, to whom was referred the resolution of the House of Representatives, dated the 13th instant, requesting the President to communicate to that body, "so far as the public interest will permit, the correspondence between the Government of the United States and that of Great Britain, relating to the Northeastern Boundary of the United States, since the Message of the late President to the Senate of the United States of the 15th of June, 1836, and all the correspondence which has taken place since that period between the Government of the United States and the Governor of the State of Maine, on the subject of alleged aggressions upon the rights of Maine by the British authorities," has the honor respectfully to submit to the President copies of the letters and documents requested by that resolution.

JOHN FORSYTH.



## LIST OF ACCOMPANYING PAPERS.

- 
- |  |   |   |   |   |   |                 |
|--|---|---|---|---|---|-----------------|
| 1. Letter from the Governor of Maine to the Secretary of State, (with enclosures,) dated | - | - | - | - | - | March 30, 1837. |
| 2. — Same to the President (with enclosures)   | - | - | - | - | - | April 30, 1837. |
| 3. — Same to same (with enclosures)  | - | - | - | - | - | June 27, 1837.  |
| 4. — Same to same (with enclosure)   | - | - | - | - | - | June 19, 1837.  |
| 5. — Secretary of State to the Governor of Maine   | - | - | - | - | - | June 26, 1837.  |
| 6. — Governor of Maine to the Secretary of State (with enclosures)                       | - | - | - | - | - | July 3, 1837.   |
| 7. — Secretary of State to the Governor of Maine   | - | - | - | - | - | July 14, 1837.  |
| 8. — Governor of Maine to the Secretary of State   | - | - | - | - | - | June 27, 1837.  |
| 9. — Secretary of State to the Governor of Maine   | - | - | - | - | - | July 19, 1837.  |
| 10. — Governor of Maine to the President   | - | - | - | - | - | July 23, 1837.  |
| 11. — Secretary of State to the Governor of Maine  | - | - | - | - | - | Aug. 17, 1837.  |
| 12. — Same to the same   | - | - | - | - | - | Aug. 25, 1837.  |
| 13. — Mr. Forsyth to Mr. Fox   | - | - | - | - | - | March 23, 1837. |
| 14. — Mr. Fox to Mr. Forsyth   | - | - | - | - | - | March 28, 1837. |
| 15. — Same to same   | - | - | - | - | - | Aug. 24, 1837.  |
| 16. Extract from Mr. Stevenson to Lord Palmerston  | - | - | - | - | - | Aug. 10, 1837.  |

## STATE OF MAINE.

(1)—*The Governor of Maine to the Secretary of State.*

Sir,

*Executive Department, Augusta, March 30, 1837.*

IN compliance with a request of the Legislature of this State, I have the honor to transmit to you the accompanying report and resolutions.

I am, &amp;c.,

*The Secretary of State.*

ROBERT P. DUNLAP. Arrest and Imprisonment of E. Greely.  
Projected Railway between Quebec and St. Andrews.

XI.

North-eastern Boundary.

## STATE OF MAINE.

Inclosure in No. 1.

*House of Representatives, March 29, 1837.*

*THE Joint Select Committee who had under consideration the order relating to the expediency of calling the attention of Congress to the subject of fortifying our maritime and interior frontier, have attended to that duty, and ask leave to present the following report :*

ONE object of the Federal Compact is "to provide for the common defence and general welfare.

In accordance with these objects of the compact, the General Government has, from time to time, made liberal appropriations for fortifying and defending the several States along our extended maritime frontier, west and south of the western boundary-line of this State; east of that line, a mere trifle has, as yet, been appropriated for these objects.

Maine has a maritime frontier of about five hundred miles in extent, following the indentations of her shores; and our interior frontier, bounding on New Brunswick on the east, and the Canadas on the north, is about six hundred miles in extent.

Considering this great extent of seacoast, her numerous excellent harbors, her noble rivers, and great advantages for ship-building, and her proximity to the fishing grounds, probably no State in the Union possesses the natural advantages for carrying on this branch of industry that Maine does.

It is a fact worthy of consideration, that all maritime nations have looked to their fisheries as the nursery of hardy seamen for the merchant service in time of peace, and for the navy in time of war; and, as a great question of national policy, (aside from the inducements to encourage this branch of business as an unfailing source of natural wealth,) it is deemed worthy of the fostering care of all commercial nations.

Already the navigation of Maine is estimated at more than three hundred thousand tons, and exceeded by only two States in the Union; and her increase annually of tonnage, is greater than that of any other State.

The abundance of building materials, believed to be inexhaustible, her great conveniences for ship-building along her extended seacoast, her numerous bays, rivers, and harbors, render it highly probable that the day is not far distant when the maritime interests of Maine will exceed that of any of her sister States. And if reliance can be placed upon the statements of a scientific engineer of high respectability and standing, who has, during the past year, under the direction of the Government of this State, and our parent commonwealth, made a geological survey of a portion of our State, it may be doubted whether the same extent of territory on the continent contains more real value, viewed in all its bearings, (the facilities of quarrying, manufacturing, exporting, and its influence upon the great interests of the State and nation,) than is contained in our inexhaustible quarries of granite, lime, marble, slate, &c., mines and minerals, in which large and profitable investments are already made. Some of these branches of business have been carried on for many years, and others to a large extent are commencing under the most favorable auspices.

These, together with our agricultural, commercial, and manufacturing interests; our immense forests of invaluable timber; with a water-power of vast extent and value; giving us the means of laying the seaports of the Union under a contribution for ages to come,



## XI.

North-eastern  
Boundary.

Arrest and Impri-  
sonment of  
E. Greely.

Projected Railway  
between Quebec  
and St. Andrews.

and warranting the belief that our present shipping interest will be sustained and employed, and a great increase required.

About one-third of the most valuable portion of our territory is claimed by Great Britain; and the history of this protracted controversy, from its commencement to the present time, is such as to awaken general anxiety. We are admonished, by recent events, that we have not yet reached the termination of our toils and embarrassments; and they have awakened the painful apprehension that our just rights may not be secured by honorable negotiation or patient submission to unprovoked injuries. These considerations, in the opinion of your Committee, call loudly for the interposition of the General Government, and require at their hands all needful preparation for possible contingencies. The late Governor Lincoln, nearly ten years since, called the attention of the Government to the importance of erecting a strong fortification in some eligible position on the confines of that portion of our territory to which an adverse claim is set up by Great Britain. In the opinion of your Committee, the subject has lost none of its interest since that period, but on the contrary, the events to which we have alluded give to it vastly augmented importance; and, to our view, irrespective of any conditions growing out of the present controversy, a strong fortification upon the northeastern boundary of the United States, situated far in the interior, and upon the confines of a foreign country, and surrounded by millions of acres of fertile land, destined soon to be peopled with a numerous population of hardy yeomanry, is of high importance.

Our isolated situation, being the northeastern boundary of the nation, with an interior frontier of upwards of six hundred miles upon a foreign country, and a large proportion of our territory lying between two provinces of Great Britain, and so situated as to render it greatly to the advantage of that nation to possess it; the inflexible determination which she manifests to pursue the course which interest dictates should not be forgotten. The extent of our seacoast, the exposed situation of our seaport towns, lying within a few hours' sail of the British Naval Depot in the neighborhood of Maine, the disastrous consequences of our defenceless situation during the last war, the great and increasing maritime interests which we have at stake, without one single point where a ship, if dependent upon the United States fortifications, would be safe from the attacks of a frigate: these, and the consideration that little comparatively has yet been done for Maine, seem to our view to constitute irresistible reasons why Maine should no longer be forgotten or neglected in the common defence of the country.

Through all the long-protracted struggles, difficulties, and embarrassments of our infant republic, this portion of our Union has never been urgent or importunate in pressing its claims, but has submitted patiently to the force of circumstances which rendered it necessary to defer them.

But, in the present altered condition of the country; the national debt paid off, at a season of universal peace and unexampled prosperity; with an overburdened treasury, and when it is deemed necessary to dispose of it, to resort to measures which many eminent statesmen consider unwarranted by the constitution, and which a great portion of the people of the Union consider doubtful policy: at such a period, and under such circumstances, it is difficult to perceive the justice of longer withholding suitable appropriations for the defence of Maine; and, to our view, they can only be withheld by doing violence to the principles of equal rights, and by neglecting a plain constitutional duty.

Your committee therefore submit the following resolutions.

STEPHEN C. FOSTER, *Chairman.*

## STATE OF MAINE.

### *Resolve relating to the fortification of frontier States.*

*Resolved*,—That the obligation of the Federal Government, under the constitution, when it has the means, to erect suitable fortifications for the defence of the frontier of the States, is a practical duty, not justly to be denied, evaded, neglected, or delayed.

*Resolved*,—That our Senators in Congress be instructed and our Representatives requested to use their influence to obtain liberal appropriations for the defence of Maine, and the Union.

*Resolved*,—That the Governor be requested to transmit copies of the above report and resolutions to the President and Vice-President, the Secretaries of State, Navy, and War, and to each of our Senators, and Representatives in Congress.

In the House of Representatives, March 30th, 1837.—Read and passed.

H. HAMLIN, *Speaker*.

In Senate, March 30th, 1837.—Read and passed.

J. C. TALBOT, *President*.

March 30th, 1837.—Approved.

ROBERT P. DUNLAP.

XI.

North-eastern  
Boundary.

Arrest and Impri-  
sonment of  
E. Greely.

Projected Railway  
between Quebec  
and St. Andrews.

No. 2.—*The Governor of Maine to the President of the United States.*

Sir,

*Executive Department, Augusta, April 30, 1837.*

IN compliance with a request of the Legislature of this State I have the honor to transmit to your Excellency the accompanying report and resolutions.

In behalf of the State of Maine, I would respectfully, yet urgently, call on the President of the United States to cause the north-eastern boundary of this State to be explored and surveyed, and monuments erected, in accordance with the request contained in the resolutions which are herewith communicated. As the subject is one in which the people of Maine have a deep interest, I feel a confidence it will commend itself to your early attention.

With high consideration, I have the honor to be, &c.

*His Excellency Martin Van Buren,*  
President of the United States.

ROBERT P. DUNLAP.

Inclosure 1 in No. 2.

*In House of Representatives, February 2, 1837.*

THE Joint Committee to whom were referred so much of the Governor's message as relates to the north-eastern boundary, and the documents and evidence, together with an order of the two Houses instructing the committee "to inquire into the expediency of providing by law for the appointment of commissioners on the part of this State, by the consent of the Government of the United States, to survey the line between this State and the Province of New Brunswick, according to the Treaty of 1783, to establish monuments in such places as shall be fixed by said Commissioners and by Commissioners to be appointed on the part of Great Britain," have attended to the duties assigned them, with the industry and solicitude which the importance of the subject demanded. Could the committee have spared the time, and had the means to obtain documents not within the jurisdiction of the State, and consequently out of its power, a more clear, methodical, and perfect view of the subject would have been presented; but as there had been hitherto so much procrastination, and the impatience of the public, already great, was becoming more and more intense, your committee without further preamble or apology, ask leave to present the following report:

The Legislature and people of Maine, we believe, will not contend that the treaty-making power of the United States, does not extend to a final adjustment of a disputed and undefined line of boundary between a State and a foreign nation. *But we do insist* that no power is granted by the constitution of the United States, to *limit or change the boundary of a State or cede a part of its territory without its consent*. It is even by no means certain how far *such consent* would enable the treaty authority to exert its powers. *Citizens* might be made the subjects of a treaty transfer, and these citizens, owing allegiance to the State and to the Union, and allegiance and protection being reciprocally binding, the right to transfer a citizen to a foreign Government, to *sell* him, might well be questioned, as being inconsistent with the spirit of our free institutions. But, be this as it may, Maine will never concede the principle that the President and two-thirds of the Senate can transfer its territory, much less its citizens, without its permission, given by its constitutional organs.

Your committee, however, deem it but fair to admit that they have discovered no inclination in the General Government, or any department of it, to assume this power. On the contrary the President has repeatedly declined the adoption of a conventional line deviating from the treaty of 1783, upon the express ground that it could not be done without the consent of Maine.

It is due, nevertheless, to the State of Maine to say, that the committee have no evidence that any conventional line has been proposed to them for their consent. It indeed appears that the consent of Maine had not been given to the adoption of any other boundary than that prescribed by the treaty of 1783, up to the 29th February, 1836, and we are well assured that no proposition for a different boundary has since that time been made to any department of the Government of this State.

The President of the United States, on the 15th June last, communicated to the Senate, in compliance with their resolution, a copy of the correspondence relative to the



XI.  
 —  
 North-eastern  
 Boundary.  
 Arrest and Impri-  
 sonment of  
 E. Greely.  
 Projected Railway  
 between Quebec  
 and St. Andrews.

northeastern boundary. This correspondence embraced a period from the 21st July, 1832, to the 5th March, 1836.

The opinion and advice of the King of the Netherlands, to whom the controversy was referred by the provisions of the Treaty of Ghent, was made on the 10th January, 1831, and of the three questions submitted, viz: *the northeastern boundary*, the *northwesternmost head of Connecticut river*, and the *forty-fifth parallel of latitude*, he seems to have determined *but one*. He did decide that the source of the stream running into and through Connecticut lake, is the true northwest head of that river, as intended by the Treaty of 1783; and as to the rest he *advises* that it will be *convenient* (il conviendra) to adopt the "Thalweg," the deepest channel of the St. John's and St. Francis, for the north line; and that the 45th degree is to be measured in order to mark out the boundary to the St. Lawrence, with a deviation so as to include Rouse's Point within the United States. As to the *convenience* of establishing the St. John's and St. Francis as the northern boundary of Maine, we have only to observe that however "convenient" it may be to Great Britain to obtain so large a portion of our territory and waters, it would certainly be very *inconvenient* to us, and inasmuch as we are probably capable of judging of our own "convenience," and have never solicited *the advice* of any one on this point, it is scarcely to be expected that we shall be *advised* to adopt a line so preposterous and injurious.

It was in this view, and in strict conformity with the constitution conferring the treaty power, that the President, on the 7th December, 1831, submitted to the Senate this "award" and "advice" of the King of the Netherlands. Senators were divided on a principal point; some insisting that to carry the award or opinion into effect, was only *in execution* of the Treaty, and it therefore belonged exclusively to the President "to take care" that this "supreme law" was faithfully executed, or to reject it altogether.

But the prevailing opinion was, that this "award" or "advice" was *perfecting an unfinished Treaty*, and that therefore it could not be effected by the President without "the advice and consent of the Senate, two-thirds of the members present concurring therein." So far from the concurrence of two-thirds for the measure, there were *thirty-four to eight against* it, and it was consequently rejected, and a recommendation to the President was adopted, to open a new negotiation to determine the line of boundary according to the Treaty of 1783.

It is insisted by the British Ministers that a due north line from the monument at the source of the St. Croix, will intersect no highlands described in the treaty of 1783. Now this is an assumption by Great Britain totally unwarranted by any evidence. The boundaries bearing upon the question are thus given: "from the northwest angle of Nova Scotia, to wit, that angle which is formed by a line drawn due north from the source of the St. Croix river to the highlands; along the said highlands, which divide the rivers that empty themselves into the St. Lawrence from those which fall into the Atlantic ocean, to the north westernmost head of Connecticut river;" "east by a line to be drawn along the middle of the river St. Croix, from its mouth, in the bay of Fundy, to its source, and from its source directly north to the aforesaid highlands, which divide the rivers that fall into the Atlantic ocean from those which fall into the St. Lawrence."

The first object, starting-place, or *terminus a quo*, is this *northwest angle of Nova Scotia*. It is the corner of the British province, *designated by themselves*. It was presumed, and it is still believed, that they knew the identical spot; we have a right to demand of them to define it. In the Treaty of 1783, they were disposed to define it, and hence they say it is *that angle which is formed by a line drawn due north from the source of the St. Croix, to those highlands which divide the rivers that flow into the St. Lawrence from those which flow into the Atlantic ocean*.

Nothing can be more clear than that the British negotiators of the Treaty of 1783 had reference to their east and west line, between Canada and Nova Scotia. This, in 1755—6, was matter of controversy between France and England, the French claiming that it was far south, and the British strenuously contending that these very highlands were even more north than we have endeavored to fix them.

The controversy resulted in a war, which, after the capture of Quebec, was terminated by the peace of 1763, whereby Great Britain obtained both sides of the line, and she then established the north line of Nova Scotia about where we contend it should be. So far from admitting that a due north line from the monument will not intersect the highlands intended by the Treaty of 1783, the State of Maine has always insisted, and still insists, that no known obstacle exists to the ascertaining and accurately defining them, and thus establishing the *terminus a quo*, to wit, *the northwest angle of Nova Scotia*. It would seem strange indeed, that as this line, so fully discussed and controverted between the English and French in 1755—6, should have been left unsettled still, when both provinces became British. It is impossible to imagine such ignorance of so important a point as this northwest angle, so often referred to, and spoken of, as a notorious monument.

The peace of 1783 was considered by Great Britain as a *grant by metes and bounds*. The boundaries were prescribed, and this northwest angle *was the commencement*. Twenty years only before this (1763) Nova Scotia had been organized as a distinct province, then including what are now Nova Scotia and New Brunswick, and this angle was referred to as a boundary without hesitancy or doubt. Indeed, the Treaty itself, as if to make assurance doubly sure, fixed it where a due north line from the source of the St. Croix will intersect those highlands which divide the rivers which flow into the *river* St. Lawrence from those which flow into the Atlantic ocean. This source of the St. Croix has been determined and

a monument fixed there by the commissioners, under the 5th article of the Treaty of 1795, (Jay's.) Now the assumption that the north line from this monument will intersect or meet no such highlands is entirely gratuitous.

The Treaty does not speak of mountains nor even hills, but of "highlands" that divide rivers flowing different ways. It was well known that rivers did fall into the St. Lawrence and into the Atlantic; that these rivers would run *down* and not *up*, and it was consequently inferred that the *land* from whence these *rivers* flowed must of necessity be *high*, and unless there are to be found in that region *geological phenomena* which exist no where else on the face of the globe, this inference is irresistible.

The truth is that these highlands have been known and well understood by the British themselves, ever since the grant of James the First to Sir William Alexander, in 1621. The portion of the boundary there given, which relates to this controversy, is from the western spring-head of the St. Croix, by an imaginary line conceived to run through the land northward to the next road of Ship's river or spring, discharging itself into the great river of Canada, and proceeding thence *eastward* along the shores of the sea of the said river of Canada, to the road, haven, or shore, commonly called *Gaspeck*—(Gaspé.)

The cession of Canada by France made it necessary to define the limits of the province of Quebec, and accordingly His Britannic Majesty, by his proclamation of 7th October, 1763, is thus explicit as to what affects this question: "Passing along the highlands which divide the *rivers* that empty themselves into the said *river* St. Lawrence from those which fall into the sea, and also *along the north coast of the bay de Chaleurs* and the coast of the *gulf* of the St. Lawrence to *Cape Rosiers*," &c.

The Act of Parliament of the 14th George III. (1774,) defines thus the south line of Canada: "South, by a line from the bay de Chaleurs along the highlands which divide the rivers that empty themselves into the river St. Lawrence from those which flow into the sea." The north line of the grant to Alexander is from the source of the St. Croix to the springhead or source of some river or stream which falls into the river St. Lawrence, and thence *eastward* to Gaspé bay, which communicates with the gulf of St. Lawrence in lat. 49 deg. 30 min., and would make nearly an east and west line. The proclamation of 1763 defines the *south* line of the province of Quebec as passing along the highlands which divide the rivers that fall into the St. Lawrence from those which fall into the sea, and also along the north coast of the bay de Chaleurs, to the *gulf* of St. Lawrence. This is the *south* boundary, and consequently in an *east* and *west* direction, but it passes *north* of bay de Chaleurs, wherefore the south boundary of the province must of necessity be north of bay de Chaleurs. The eastern boundary is northerly by the gulf of *Cape Rosiers*, in about lat. 50 deg. long. 64 deg. north of Gaspé bay, and at the mouth of the river St. Lawrence, where it communicates with the gulf or sea. And the act of Parliament makes *this south* side from this same bay along those highlands, and it must *inevitably run west*, or *it is no south* boundary. Now no one can doubt that in the proclamation of 1763 it was the intent to adopt Sir William Alexander's *northern* for this *southern* boundary of the province of Quebec.

Indeed it appears in every commission to the Governor of Nova Scotia and New Brunswick from 1763 to 1784, and after the Treaty of Peace of 1783, that the province of Nova Scotia extended to the southern boundary of the province of Quebec. It then irresistibly and inevitably follows that a west line from the bay de Chaleurs, intersecting a due north line from the monument, is the identical northwest angle. Now a line from Mar's Hill direct to Cape Rosiers, instead of being *easterly*, would be north of northeast, *crossing* the bay de Chaleurs. But passing along its north coast, as the proclamation provides, the line from this Mar's Hill must be more northerly still. Indeed the pretence that a pyramidal spur or peak, such as this hill, should constitute the range of highlands mentioned in the Treaty, is so utterly visionary that it is entitled to *no sort of respect*.

We may now, by these facts and reflections, give this inquiry a right direction, to wit: to the ascertainment of the north boundary of Nova Scotia, which is the southern boundary of Canada. We have always been lured from this by the British negotiators to the *left* or *west* of this north line from the monument.

No one who is the least conversant with the subject can suppose for a moment that this northwest angle can be found in such a direction. The question for us is, Are there any highlands north of the bay de Chaleurs, extending *in a western direction*, towards a north line drawn from the monument? If this line westerly from the bay be not distinctly marked so far as to intersect this north line, the principle is to extend it in the same direction to the place of intersection; that is, if the line between Nova Scotia and Canada is *west* to within say thirty miles of the north line from the monument, and the rest of the way is indefinite or obscure, extend it on in the same direction until you form a point of intersection, and this will be the northwest angle of Nova Scotia. But the truth is, *the highlands are there*, and have been found in running due north from the monument. The elevations were taken by the British surveyor from the source of the St. Croix, at the monument, to the first waters of the Ristigouche; and at Mar's Hill, forty miles, the summit of this isolated sugar-loaf was 1,100 feet, and at the termination of the survey at the Ristigouche waters, one hundred miles further, the elevation was 1,600 feet, consequently, the summit of Mar's Hill, 1,100 feet above the waters of the St. Croix, is 500 feet lower than the lands at the Ristigouche, and yet the pretence is that there are no highlands but this detached spur, Mar's Hill! Still further: the highest position surveyed is nearly fifty miles short of the Metis, which falls into the St. Lawrence, and we do not per-

## XI.

North-eastern  
Boundary.

Arrest and Impri-  
sonment of  
E. Greely.

Projected Railway  
between Quebec  
and St. Andrews.



## XI.

North-eastern  
Boundary.  
Arrest and Impri-  
sonment of  
E. Greely.  
Projected Railway  
between Quebec  
and St. Andrews.

ceive that the elevations have been taken there at all; but we do find it is here that *the waters separate*, and consequently the land must be still higher.

In failure of highlands, (*assumed* not to exist,) the British negotiators claim a line which, instead of dividing the St. Lawrence and Atlantic waters, would actually extend between two rivers, *both of which fall into the Atlantic*.

To say nothing of the absurdity, not to say ignorance, of such a claim, it is enough that it is in the teeth of the Treaty itself. It is painful to repeat the argument that no other highlands were intended, for all others were expressly excluded but those which divide the waters that flow in those different directions. The effect of their construction, as we all know, is to give them the whole of the St. John, with all its tributaries, and a tract of territory south of that river, equal at least to seventy-five miles square.

Whether, from the peaceful spirit of our Government, the christian patience of Maine, or the "modest assurance" of the British negotiators, any or all, certain it is, that His Britannic Majesty's pretensions *are growing every day*. It is not only an after-thought, but one very recently conceived, that we were to be driven south of the St. John.

His Britannic Majesty's agent, (Mr. Chipman,) who has been lately urging us south of that river, was also agent to the commission under the Treaty of 1795, to ascertain the true St. Croix, and in insisting on a more *western* branch of this river, gives as a reason, that a line due north will cross the St. John's *farther up*, whereas, if you take an *eastern* branch, such line will cross near Frederickton, the seat of Government of New Brunswick, and materially infringe upon His Majesty's province. He not only admits, but contends, that this north line *must* cross the river. Here are his words: "This north line must of necessity cross the river St. John's." Mr. Liston, the British Minister, in a private letter to Mr. Chipman, of 23d October, 1798, recommends a modification of the powers of the commissioners, for the reason that *it might give Great Britain a greater extent of navigation on the St. John's river*. The same agent (Mr. Chipman) was also agent under the fourth article of the Treaty of Ghent, and we find him contending there, that the northwest angle of Nova Scotia is the same designated in the grant to Sir William Alexander in 1621, subject only to such alterations as were occasioned by the erection of the province of Quebec in 1763. Now we have already seen that this south line of the province of Quebec, so far from *altering* this N. W. angle, in fact confirms it.

In perfect accordance with this disposition to encroach, is a proposition of the British Minister, (Mr. Vaughan,) that inasmuch as the highlands cannot be found by a due north direction from the monument, we should *vary west* until we should intersect them, *but not east*! Now that, in case a monument cannot be found in the course prescribed, you should look for it *at the left, but not to the right*, seems to us a very *sinister* proposition. We have shown, and, as we think, conclusively, that the range of highlands is to be looked for on British ground, and nowhere else; because it is their own boundary, and a line which must, with an ascertained north line, form the angle of one of their own provinces. And yet we are not to examine there at all; we have never explored the country there, and are expected to yield to such arrogant, extravagant, and baseless pretensions!

We would ask, why, in what justice, if we cannot find the object in the route prescribed, are we to be thus trammelled? where is the *reciprocity* of such a proposition, so degrading to the dignity and insulting to the rights and liberties of this State? No! the people of Maine will not now, and we trust they never will, tamely submit to such a *one-sided* measure.

The next restriction or limitation with which this negotiation is to be clogged, is an admission that the Ristigouche and St. John's are not Atlantic rivers, because one flows into the bay de Chaleurs and the other into the bay of Fundy, yet neither falls into the river St. Lawrence. They would then find those highlands between the St. John's and the Penobscot. There cannot be a more arrogant pretension or palpable absurdity. Suppose the waters of both these rivers are excluded, as flowing *neither way*, still the waters that flow *each way* are so far separated as to leave a tract of country which, if equally divided, would carry us far beyond the St. John's. But we admit no such hypothesis. The *Atlantic* and the *sea* are used in the charters as synonymous terms. The Ristigouche, uniting with the bay de Chaleurs, which communicates with the sea, and the St. John's, uniting with the bay of Fundy, which also communicates with the sea, and that, too, by a mouth of ninety miles wide, are both Atlantic rivers. These rivers were known by the negotiators not to be *St. Lawrence rivers*; they were known to exist, for they were rivers of the first class. If they were neither St. Lawrence nor Atlantic, why were they not excepted? They were not of the former, therefore they must be included in the latter description. Indeed, if rivers uniting with Atlantic bays are not Atlantic rivers, the Penobscot and Kennebec, which unite with the respective bays of Penobscot and Sagadahock, would not be Atlantic rivers; and then, where are those highlands which divide the waters referred to in the Treaty of 1783? Should we leave this question unsettled a little longer, and the British claims continue to increase, we might very soon find these highlands south of the Connecticut, and all the intermediate country would be *recolonized* by "construction." We therefore invoke the sympathy of all New England, with New York besides, to unite against this progressive claim—this avalanche, which threatens to overwhelm *them as well as ourselves*.

Again, if this Mar's Hill (and we confess we cannot speak of the pretension with any patience) is *the northwest angle*, and the north boundary of Nova Scotia and the south boundary of the province of Quebec are the same, and north of the bay de Chaleurs, then

there is indeed *no* northwest angle; for a line due north from the monument, passing by Mar's Hill, must pursue nearly the same direction to get to the north of that bay without crossing it; and who ever thought of an angle at the side of a continuous line? Now, according to the British maps, taken in this very case, you must run a course of north about fourteen degrees east to obtain the north side of the bay without crossing it, and the distance would be, in this almost due north direction, more than one hundred miles, while that from the monument to Mar's Hill would be little more than forty. Now when we consider that this northerly line must form nearly a right angle to pass along the north shore of the bay de Chaleurs, that this is one hundred miles farther north than Mar's Hill, where, instead of an angle, there can be only an inclination of fourteen degrees, can there be a greater absurdity than the British claim, founded on these facts?

We will now present some facts and remarks in regard to the surveys and explorings made by the commission under the 5th article of the Treaty of Ghent: and the first fact that occurs is, that the elevations taken by the British surveyor stop far short of where the waters divide, and we find no proof that these elevations were carried through by our own surveyors. If the British surveyor, after ascertaining *he was still ascending*, and had, in fact, arrived at the lands at *a branch of a river* elevated five hundred feet above the summit of Mars Hill, *found it prudent to stop short*, we see no good reason why the American agent did not *proceed on* and take accurate elevations at a place where the waters divide. If such a survey was made the committee have not been able to obtain the evidence; it is not in the maps or documents in the library or office of the Secretary of State, and the committee believe that no such elevations have been taken northerly of the first waters of the Ristigouche. It is, indeed, a little singular that we have so little evidence, not only in regard to this height of land, but also of the rivers which flow into the St. Lawrence *to the left*, and *especially to the right* of the north line from the monument.

We know some of them, to be sure, such as the *Oelle, Kamonska, Verte, Trois Pistoles, Remouskey*, and *Metis*, on the left, and the *Blanche, Louis, Magdalen*, and others, on the right of this line, but we know them chiefly as on *maps*, and as transcribed from older maps, but very little from actual survey or even exploration. An examination of the sources of those rivers at the right of this north line, with the important natural boundary, the north shore of the bay de Chaleurs, would accurately define the divisional line between the province of Quebec and Nova Scotia, which, extending west, would intersect the due north line, and thus form the northwest angle of Nova Scotia.

It moreover appears that little or no exploration has been made of the lands *east* of the due north line. It seems strange to us, although it may be satisfactorily explained, why we should have been drawn away from this very important region. It is, indeed, the true source of inquiry. In this direction the evidence is to be found; and Maine can never be satisfied until it is looked for here.

An extraordinary method of adjusting this question, though in perfect accordance with other pretensions, has been proposed by Great Britain—that the disputed territory should be divided in equal portions, each party being satisfied of the justice of its claims. To this proposition we cannot subscribe. It is equally unjust between nations and individuals. Whether a party in controversy is satisfied or not with the justice of his claims, is what is only known to himself, and, consequently, the one whose claims are most exorbitant, however unjust, will always get the best end of the bargain. But such a rule would, in this case, apply most unfortunately to Maine. We are limited, at farthest, to the St. Lawrence, and to a very narrow point there, while the British may extend their claims to the south and west indefinitely. Establish this principle and we shall soon find their claims, already so progressive, stretched over to the Piscataqua, and then if we are to divide equally both as to *quantity* and *quality*, the divisional line then would fall south of the Kennebec. If the want of the consent of Maine is the obstacle to such an adjustment, we trust it will always remain an insuperable one. Indeed, we protest against the application to us of such a rule, as manifestly unequal and unjust.

We come now to the recent transactions of the British colonial authorities, sanctioned, as it appears, by the Government at home; and we regret to perceive in them, also, those strong indications of continual and rapid encroachment which have characterized that Government in the whole of this controversy. Mr. Livingston, in his letter of the 21st of July, 1832, proposes that, "until the matter be brought to a final conclusion, both parties should refrain from the exercise of jurisdiction;" and Mr. Vaughan, in reply of 14th April, 1833, in behalf of his Government, "entirely concurs." Here, then, the faith of the two Governments is *pledged* to abstain from acts of jurisdiction until all is settled. Now how are the facts? We understand, and, indeed, it appears by documents herewith exhibited, that an act has passed the Legislature of New Brunswick, "incorporating the St. Andrew's and Quebec railroad company;" that the King has granted £10,000 to aid the enterprise, and that the Legislature of Lower Canada, by its resolutions of both Houses, has approved the scheme and promised its co-operation. It may be that the Government at home was not aware that this railroad must inevitably cross the disputed territory.

But this ignorance of the subject seems incredible. A railroad from St. Andrew's to Quebec would be *impossible* unless it crossed the territory in question—even next to impossible and totally useless were it to pass at the north of the St. John's. It seems therefore extraordinary indeed, that the British Government, even in the incipient stages of this enterprise, should make an appropriation which is in direct violation of its solemn pledge. To give to a railroad corporation powers over our rights and property is the **strongest act of**

## XI.

North-eastern  
Boundary.

Arrest and Imprisonment of  
E. Greely.

Projected Railway  
between Quebec  
and St. Andrews.



## XI.

North-eastern  
Boundary.

Arrest and Impri-  
sonment of  
E. Greely.

Projected Railway  
between Quebec  
and St. Andrews.

sovereignty. It is an act of delegated power which we ourselves give to our own citizens with extreme caution, and with guarded restrictions and reservations. This railroad must not only cross the disputed territory, but it crosses it fifty miles south of the St. John's, and almost to the southerly extremity of the British claim, extravagant as it is. By the map herewith exhibited of the survey of the route, it appears that the road crosses our due north line at Mars Hill, thence doubling round it towards the south, it crosses the *Roostic* between the Great and Little *Machias*, the *Alleguash* at the outlet of *First Lake*, a branch of the St. John's south of *Black river*, and passes into Canada between "Spruce Hills" on the right, and "Three Hills," on the left, thus crossing a tract of country south of the St. John's, one hundred by fifty miles. We have not a copy of the act of incorporation of New Brunswick, and cannot, therefore, say that the route there defined is the same as on the map. Be this as it may, certain it is, as any one will see, that no possible route can be devised which will not cross the territory in question. It is, then, a deliberate act of power, palpable and direct, claiming and exercising sovereignty far south even of the line recommended by the King of the Netherlands.

In all our inquiries and examinations of this subject there has been great negligence in regard to this N. W. angle. Judge Benson, one of the commissioners under Jay's treaty, in a letter to the President of the United States, expressly and clearly defines this angle. He states distinctly that the due north line from the source of the St. Croix, is *the west side line*, and the highlands are *the north side line* which form this angle, and this had never been questioned by the British themselves.

This due north line, viz: the west side line, was established by the commission of which Judge Benson was a member, and the British have made the north side line to be north of the bay de Chaleurs, and yet with these postulates, to pretend that the points of intersection cannot be found, is one of the greatest of their absurdities. And another absurdity quite equal is, that, after passing west along the north shore of this bay, they would fall down nearly south more than one hundred miles to Mars Hill, about sixty miles from the south shore of the province, at the bay of Passamaquoddy, which is a part of the bay of Fundy; and this point too of so little inclination, that it is a palpable perversion of language to call it *an angle*, much more a N. W. angle.

It is indeed time for us to begin to search, and in the right places too, in order to put a stop to these perpetual encroachments upon our territory and rights. Our first object should be to ascertain and trace the north boundary of Nova Scotia, which is the south boundary of the province of Quebec, and see if Canada comes as far down as Mars Hill. And we should proceed to finish taking the elevations on the due north line to some point where the waters divide. The General Government should be immediately called on to execute the work, with the co-operation of Massachusetts and Maine. Notice should be given to the British authorities to unite in the undertaking, and, if they refuse, our Government ought to proceed *ex parte*. The act would be entirely pacific, as the object would be to *ascertain facts*; much more pacific than the survey, *without notice*, of the St. Andrew's and Quebec railroad, through our territory, not for the purpose of ascertaining a boundary, but to assume jurisdiction.

Your committee have gone through this tedious investigation with all the deliberation, exactness, and candor, which our time, means, and feelings would allow. Our animadversions may, in some instances, have been strong, and even severe, but we think we have expressed the sentiments and feelings of the people of Maine, suffering under protracted injuries. This state should take a firm, deliberate, and dignified stand, and one which it will not retract. While it awards to the General Government all its legitimate powers, it will not be forgetful of its own. We call upon the President and Congress; we invoke that aid and sympathy of our sister States which Maine has always accorded to them; we ask, nay, we demand, in the name of justice, HOW LONG we are to be thus trampled down by a foreign people? and we trust we shall meet a cordial and patriotic response in the breast of every republican of the Union.

Your committee, therefore, submit the following resolutions.

L. J. HAM,  
NATH'L S. LITTLEFIELD,  
SAMUEL P. BENSON,  
EBENEZER HIGGINS,  
JOHN R. REDMAN,  
*Of the Senate.*

JOHN HOLMES,  
J. A. LOWELL,  
NATHAN IDE,  
DANIEL SMALL,  
SEWALL PRESCOTT,  
EPHRAIM WEEKS,  
JAMES BURBANK,  
CHARLES HUNT,  
JOHN D. RICHARDS,  
*Of the House.*

## STATE OF MAINE.

*Resolves relative to the Northeastern Boundary.*

*Resolved*, That we view with much solicitude the British usurpations and encroachments on the northeastern part of the territory of this State.

*Resolved*, That pretensions so groundless and extravagant indicate a spirit of hostility which we had no reason to expect from a nation with whom we are at peace.

*Resolved*, That vigilance, resolution, firmness, and union on the part of this State, are necessary in this state of the controversy.

*Resolved*, That the Governor be authorized and requested to call on the President of the United States to cause the northeastern boundary of this State to be explored and surveyed and monuments erected according to the *Treaty* of 1783.

*Resolved*, That the co-operation of Massachusetts be requested.

*Resolved*, That our Senators in Congress be *instructed* and our Representatives *requested* to endeavor to obtain a *speedy* adjustment of the controversy.

*Resolved*, That copies of this report and resolution be transmitted to the Governor of Massachusetts, the President of the United States, to each of our Senators and Representatives in Congress, and other Senators in Congress, and the Governors of the several States.

In the House of Representatives, March 24, 1837. Read and passed.

In Senate, March 25, 1837. Read and passed.

March 25, 1837. Approved.

H. HAMLIN, *Speaker*.

J. C. TALBOT, *President*.

ROBERT P. DUNLAP.

## XI.

North-eastern  
Boundary.

Arrest and Imprisonment of  
E. Greely.

Projected Railway  
between Quebec  
and St. Andrews.

No. 3.—*The Governor of Maine to the President of the United States.*

Sir,

*Executive Department, Augusta, June 27, 1837.*

I LOSE no time in communicating to your excellency a copy of a letter from Sir John Harvey, Lieutenant-Governor of the province of New Brunswick, and also a letter from J. A. Maclauchlan to Sir John Harvey, in relation to the arrest and imprisonment of Ebenezer S. Greely.

I have the honor to be, with high considerations, &c.

ROBERT P. DUNLAP.

His Excellency Martin Van Buren,

*President of the United States.*

Sir,

*Government House, Frederickton, N. B. June 12, 1837.*

SINCE I had the honor of addressing your Excellency under date the 6th instant, announcing my assumption of the administration of this Government, a report has been laid before me by the warden of the disputed territory, a copy of which I feel it to be an act of courtesy towards your Excellency to lose no time in communicating to you.

In including the territory within the limits of the British claim in the census which "Ebenezer Greely" appears to have been instructed to take of the population of the county of "Penobscot," he has evidently acted in ignorance or under a misconception of the subsisting relations betwixt England and the United States of America, which I cannot allow myself to doubt that your Excellency will lose no time in causing to be explained and removed. Though necessarily committed to confinement, I have desired that every regard may be shown to Greely's personal convenience, consistent with the position in which he has "*voluntarily*" placed himself: I use this expression because, as your Excellency will observe, Greely was informed by the warden that if he would desist from the act in which he was engaged and the language which he was holding to the people of the Madawaska settlement, (acts constituting not only an interference with the acknowledged rights of jurisdiction of this province but the positive exercise within its limits of actual jurisdiction, however unauthorized on the part of the State of Maine,) and would withdraw from this district, he should be allowed to do so, otherwise, that in the discharge of the duties imposed upon him by his office, he (the warden) who is in the commission of the peace, must be under the necessity of apprehending, in order to make him amenable to the laws of the province. This proposal Greely rejected, and was accordingly committed to jail, to be dealt with according to law. In the mean time, as an evidence of my desire to cultivate the most friendly understanding with the Government of the State of which Greely is a citizen, I lose no time in saying that, upon receiving an assurance from your Excellency that your authority shall be exerted in restraining this or any other citizen of the State of Maine from adopting proceedings within the British limits, (as claimed,) calculated to infringe the authority and jurisdiction of this province and to disturb and unsettle the minds of that portion of its inhabitants residing in the disputed territories, until the question in dispute be brought to a final settlement, Greely shall be immediately enlarged.



## XI.

North-eastern  
Boundary.  
Arrest and Impri-  
sonment of  
E. Greely.  
Projected Railway  
between Quebec  
and St. Andrews

Trusting that your Excellency will see in this proposition an anxious desire on my part to redeem the pledge given in my communication of the 6th instant.

I have the honor to be, &c.

J. HARVEY,  
M. G., Lt. Governor, &c.

His Excellency the Governor  
of the State of Maine.

Frederickton, New Brunswick, June 10, 1837.

MAY IT PLEASE YOUR EXCELLENCY: In obedience to your Excellency's instructions, communicated to me through the Advocate General, in the absence of the Attorney and Solicitor Generals, I have now the honor to report, for the information of your Excellency, that I proceeded with the least possible delay to the Madawaska settlement. On my arrival at the Great falls, one hundred and thirty miles from hence, I was informed that the American citizen, Ebenezer S. Greely had passed up the day previous, for the purpose of again proceeding with the census of the inhabitants of Madawaska, under authority from the State of Maine. Aware of the probable excitement that would naturally arise between the two Governments from this circumstance, and at the same time fully convinced that his Majesty's Government would but regret any unnecessary misunderstanding during the pending negotiation, I thought it advisable to call upon Mr. Coombs, a magistrate residing twelve miles above the falls, and request him to accompany me, which he readily did, to witness the conversation between Mr. Greely and myself.

We then proceeded, and overtook Mr. Greely a short distance above Green river, about twenty-four miles from the falls, having ascertained by the inhabitants, as he passed up the river, that Mr. Greely was the whole of the previous day employed in taking down their names, number of each family, and stating they would shortly receive from the State of Maine, a sum of money not exceeding three dollars for each head of family, out of the surplus revenue of the United States.

I required Mr. Greely to show me his instructions for exercising authority in Madawaska, when he handed me a document, a copy of which I beg to enclose to your Excellency, and after perusing the same I returned it, with my opinion that I really thought he (Mr. Greely) had mistaken the intention of his instructions, as no allusion was made either to that settlement or the territory in dispute, and therefore, if he would then desist in taking the census, I would take no notice of what had passed. Moreover, in reply to my advice and request, he (Mr. Greely) remonstrated, and attempted to make it appear that he would be fully borne out by his Government in what he had done; and that it was also his intention to complete the census if he was not prevented. This reply I regret having left me no alternative but to make him a prisoner, which I did on Wednesday the 7th instant. On Friday evening I arrived at Frederickton, and this morning, (Saturday,) by the advice of the Advocate Generals, I committed him to the jail of the county of York.

I have the honor to be, &c.

J. A. MACLAUCHLAN,  
Warden of the disputed territory.

His Excellency Maj. Gen. Sir John Harvey,  
Lieutenant Governor, &c.

No. 4.—*The Governor of Maine to the President of the United States.*

Sir,

Executive Department, June 19, 1837.

I HAVE the honor to enclose to your Excellency the copy of a letter which came to hand by the last mail, by which it appears that Ebenezer S. Greely, Esq., the agent employed by the county commissioners for the county of Penobscot to take the census of the town of Madawaska, has been arrested by the authorities of the province of New Brunswick, and is now incarcerated in the jail at Frederickton.

In this state of things it becomes my painful duty to make this communication to your Excellency, and to insist that prompt measures be adopted by the Government of the United States to effect the early release of the aforementioned citizen.

I have the honor to be, &c.

His Excellency Martin Van Buren,  
President of the United States.

ROBERT P. DUNLAP.

Sir,

Frederickton, Province of New Brunswick, June 12, 1837.

ON the 15th of May last, I was appointed by the county commissioners of Penobscot county to take the census of Madawaska. On the 6th of June instant, I was arrested by Mr. Maclauchlan, from this place, and committed to jail by him, and there I now remain in the prison at Frederickton. I was committed on the 10th instant. I addressed a letter to you on the 10th, which has gone by the way of St. Andrew's. Fearing that letter will not arrive soon, I write again to-day by way of Houlton. I have described my arrest more particularly in my first letter, which you will undoubtedly receive before long; therefore, I only give the facts in this, having a chance, by the assistance of Mr.

Lombard, of Hallowell, of forwarding this to Houlton privately. I was employed in business of the State, and do expect my Government will intercede and liberate me from prison in a foreign and adjacent province. I shall be pleased to receive a line from you expressing your opinion, direction, &c.

I remain, &c.

Robert P. Dunlap, Esq.  
Governor of Maine.

EBENEZER S. GREELY.

XI.

North-eastern  
Boundary.

Arrest and Imprisonment of  
E. Greely.

Projected Railway  
between Quebec  
and St. Andrews.

No. 5.—*The Secretary of State to the Governor of Maine.*

Sir,

*Department of State, Washington, June 26, 1837.*

I HAVE the honor, by direction of the President, to acknowledge the receipt of your letter to him of the 19th instant, enclosing the copy of a communication dated the 12th of the same month, addressed to you by Ebenezer S. Greely, Esq., the agent employed by the county commissioners for the county of Penobscot to take the census of the town of Madawaska; from which it appears that he has been arrested by the authorities of the province of New Brunswick, and is now in confinement in the jail at Frederickton; and insisting that prompt measures be adopted by the Government of the United States to effect the early release of the above-named citizen.

The circumstances attending this outrage, as given in Mr. Greely's letter, are not sufficient, in the view of the President, to warrant the interference of the Government at present. For what cause, at what place, and by what authority, the arrest was made, is not stated. The necessary explanations may be found, perhaps, in the previous communication which Mr. Greely refers to as having been addressed to you by him on the 10th June; if not, it is probable that you will easily be able to obtain explicit information from other sources, and communicate it to this Department. It is indispensable that a full knowledge of all the facts illustrative of the case should be in possession of the Government before any formal application for redress can be properly preferred.

In the mean time, I have, in conversation, unofficially called the attention of Mr. Fox, the British Minister at Washington, to this complaint, and he has given me an assurance that he will immediately address a representation on the subject to the Governor of New Brunswick, requesting, unless there shall be some very extraordinary reasons against it, that Mr. Greely may be set at liberty.

I am, &c.

His Excellency Robert P. Dunlap, Esq.  
Governor of Maine.

JOHN FORSYTH.

No. 6.—*The Governor of Maine to the Secretary of State.*

Sir,

*Executive Department, July 3, 1837.*

I HAVE had the honor to receive yours of the 26th of June last, in which, by direction of the President, you indicate that the circumstances detailed in Mr. Greely's letter relative to his arrest and imprisonment are not of themselves, without further explanation, sufficient to justify the interference of the Government of the United States. This information is received with some surprise, and much regret: surprise, because I had understood Mr. Greely's communication to show, that while employed within the limits of this State, and under its authority, on a business intrusted to him by the laws of the State, he was, without being charged or suspected of any other offence, seized and transported to a foreign jail; regret, inasmuch as the feelings of the people of this State have been strongly excited by this outrage upon the honor and sovereignty of Maine; and each additional day's confinement which that unoffending citizen endures, is adding to the indignation of our citizens. I therefore hasten to lay before you a summary of the transactions connected with this subject, as they are gathered from Mr. Greely's communications to this Department. The facts are to be considered the less indisputable, because they are in the main confirmed by the statements contained in the letter of the Lieutenant Governor of the province of New Brunswick, by whose order the imprisonment was made, and a copy of which I recently had the honor of transmitting to the President.

On the eighth day of March last, the Legislature of this State passed an act relative to the surplus revenue, a copy of which is enclosed, to the eleventh, twelfth, and thirteenth sections of which I beg leave to refer your attention. An additional act was passed on the 29th day of March last, a copy of which I also enclose. By this last-named act, it became the duty of the county commissioners of Penobscot county to cause an enumeration to be taken of the inhabitants of said county residing north of the surveyed and located townships. The tract thus defined comprised the town of Madawaska, which was incorporated by this State on the 15th of March, 1831. Pursuant to that requirement, the county commissioners of said county appointed Ebenezer S. Greely to perform that service; and being duly commissioned, he forthwith proceeded to the place designated, and entered upon the required operations. Being thus employed, he was, on the 29th day of May last, arrested by the authorities of the province of New Brunswick, and conveyed to Woodstock, in the county of Carleton, in said province; but the sheriff of the county refused to commit him to jail, and he was accordingly discharged. He immediately returned to the Madawaska settlements, to enter again upon the duty intrusted to him. On the 6th



XI.  
 ———  
 North-eastern  
 Boundary.  
 Arrest and Impri-  
 sonment of  
 E. Greely.  
 Projected Railway  
 between Quebec  
 and St. Andrews.

day of June last, he was arrested a second time by the same authorities, and committed to the jail at Frederickton. It is for this act of obedience to the laws of his Government, that Mr. Greely now lies incarcerated in a public jail in the province of New Brunswick. Is not redress urgently called for? Must not this unoffending citizen be immediately released?

Permit me, sir, to add my confident belief that the President, on this presentation of the facts relative to this outrage upon the National as well as the State rights, will not fail to demand the immediate release of Ebenezer S. Greely, and to interpose suitable claims of indemnity for the wrongs so wantonly enforced upon him:

I am, &c.

Hon. John Forsyth,

*Secretary of State of the United States.*

ROBERT P. DUNLAP.

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*An additional Act providing for the distribution and repayment of the public money apportioned to the State of Maine on deposit by the Government of the United States.*

Sec. 1. Be it enacted by the Senate and House of Representatives in Legislature assembled, That the time allowed to the respective cities, towns, and plantations, in which to take the census and make returns thereof to the State treasurer is hereby extended to the twentieth day of June next.

Sec. 2. Be it further enacted, That the treasurer is hereby directed to distribute the amount of the second instalment of the surplus revenue among the cities, towns, and plantations, according to the number of their respective scholars, as borne on the school fund apportionment of the present year. And the third instalment shall be distributed according to the same apportionment, unless the census required by the act to which this is additional shall be fully made, and the returns thereof to the treasurer completed, by the first day of July next.

Sec. 3. Be it further enacted, That the third and fourth instalments shall be distributed among the towns, plantations, cities, and unincorporated places, in such manner as that the aggregate of the four instalments shall be in exact proportion to their population, as ascertained by said census.

Sec. 4. Be it further enacted, That, in addition to the enumeration required by the act aforesaid to be taken by the county commissioners, it shall be the duty of the county commissioners of the county of Penobscot to take the enumeration or census of all the inhabitants of said county residing north of the surveyed and located townships.

Sec. 5. Be it further enacted, That the treasurer be directed to cause the first section of this act to be forthwith published in all the newspapers that publish the laws of the State.

Sec. 6. Be it further enacted, That the act to which this is additional, and also this act, shall take effect and be in force from the times of the passage thereof respectively.

[Approved by the Governor, March 29, 1837.]

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*11th, 12th and 13th Sections of an Act providing for the disposition and repayment of the public money apportioned to the State of Maine on deposit by the Government of the United States.*

Sec. 11. Be it further enacted, That, for the purpose of ascertaining the population of the several cities, towns, and plantations, in this State, the aldermen of cities, the selectmen of towns, and the assessors of plantations, are hereby authorized, at the expense of their respective cities, towns, and plantations, to cause the number of the inhabitants thereof, (omitting in such enumeration foreigners not naturalized, whose residence has not been established at least four years in any of the cities, towns, or plantations, or other place wherein such enumeration is to be made, and Indians not taxed,) to be taken, according to the directions of this act. The said enumeration shall distinguish all persons under the age of four years; those of four and under twenty-one; and those of twenty-one and upwards, belonging to each city, town, and plantation in this State, on the first day of March, eighteen hundred and thirty-seven.

Sec. 12. Be it further enacted, That said aldermen, selectmen, or assessors, or such person or persons as shall be appointed by them for that purpose, shall respectively, before entering upon the performance of their duty as aforesaid, take and subscribe an oath or affirmation, before some justice of the peace, for the faithful performance of their duties, in substance as follows:

I, ———, of ———, do solemnly swear (or affirm) that I will truly and faithfully make a full and perfect enumeration and description of the persons resident with the ——— of ——— on the first day of March, eighteen hundred and thirty-seven, and return the same to the treasurer of Maine, agreeably to the directions of an act entitled "An act providing for the disposition and repayment of the public money apportioned to the State of Maine on deposit by the Government of the United States," according to the best of my ability; and that I will make said enumeration and description by actual inquiry at

every dwelling-house in said — or personal inquiry of the head of every family, and not otherwise.

Sec. 13. Be it further enacted, That said enumeration shall be fully completed, and accurate returns thereof made to the treasurer of the State, on or before the twentieth day of April next; which returns shall be made in a schedule, the form of which (with the form of the oath specified in this section) shall be provided and furnished by said treasurer, and they shall distinguish the several families by the name of their master, mistress, or head. And the person taking such enumeration shall take and subscribe upon the returns rendered by him, an oath or affirmation as follows:

I, ———, do solemnly swear (or affirm) that the number of persons set forth in the return made by me, agreeably to the provisions of the act entitled "An act providing for the disposition and repayment of the public money apportioned to the State of Maine on deposit by the Government of the United States," has been ascertained by an actual inquiry at every dwelling-house, or a personal inquiry of the head of every family, in conformity with the provisions of said act; and that the return aforesaid is correct and true, according to the best of my knowledge and belief.

A. B.

And the blank forms which the treasurer is to transmit shall be forwarded to the sheriffs of the respective counties, whose duty it shall be to cause the same to be forthwith distributed to the clerks of the respective cities, towns, and plantations. And the sheriff's bill therefor shall be presented to the Legislature for allowance.

XI.

North-eastern  
boundary.  
Arrest and Impri-  
sonment of  
E. Greely.  
Projected Railway  
between Quebec  
and St. Andrews.

No. 7.—*The Secretary of State to the Governor of Maine.*

Sir,

*Department of State, Washington, July 14, 1837.*

YOUR letter of the 3d instant has been received. The surprise you express that the information contained in the letter of Mr. Greely, which accompanied your former communication, was not considered sufficient to enable the President to make a formal application to the British Government for his release, has probably arisen from your not having adverted particularly to the defects of his statement. It was not expressly mentioned for what offence the arrest was made, nor where it took place, upon the territory in dispute between the United States and Great Britain, or beyond it. The character of the charge and the place at which the offence was committed might have been inferred from what was stated; but you must perceive the impropriety of a formal complaint from one Government to another founded upon inference, when the means of ascertaining and presenting the facts distinctly were within the power of the party complaining. But although this Department felt itself constrained by these considerations to delay a formal application to the British Government for the release of Mr. Greely, it lost no time, as has been already stated, in procuring the interference to that end of the British Minister near this Government; and I have now the satisfaction to inform you that I have learnt from him that he has opened a correspondence with the Lieutenant-Governor of New Brunswick, which it is expected will lead to the release of Greely from confinement, without waiting for the decision of His Britannic Majesty's Government on the whole question.

The information communicated to the Department since the receipt of your letter of the 3d instant, is sufficiently explicit, and a note founded upon it has been, by direction of the President, addressed to Mr. Stevenson, instructing him to demand the immediate liberation of Mr. Greely, and indemnity for his imprisonment.

I have the honor to be, &c.

Hon. Robert P. Dunlap,

*Governor of the State of Maine.*

JOHN FORSYTH.

P. S. The papers asked for in your letter of the 27th ultimo will be sent to you.

No. 8.—*The Governor of Maine to the Secretary of State.*

Sir,

*Executive Department, Augusta, June 27, 1837.*

I WOULD respectfully solicit copies of all documents and papers in the Department of State of the United States, in relation to the subject of the Northeastern boundary, with the exception of such as were furnished this Department by the General Government in the year 1827. It is understood that copies have been furnished relative to this subject down to the respective statements submitted by the two Governments to the King of the Netherlands, but the arguments we have not been furnished with.

I am, &c.

Hon. John Forsyth,

*Secretary of State of the United States.*

ROBERT P. DUNLAP.

No. 9.—*The Secretary of State to the Governor of Maine.*

Sir,

*Department of State, Washington, July 19, 1837.*

IN compliance with the request contained in your letter of the 27th ultimo, I have the honor to transmit to you a printed volume, containing a statement on the part of the United States of the case referred, in pursuance of the Convention of the 29th September, 1827, between the said States and Great Britain, to the King of the Netherlands, for his decision thereon, and to refer you, for such other papers and documents in relation to the Northeastern boundary as have not been specially furnished by this Department to the Executive of Maine, to the following numbers in the volumes of documents of the



XI.  
—  
North-eastern  
Boundary.  
Arrest and Impri-  
sonment of  
E. Greely.  
Projected Railway  
between Quebec  
and St. Andrews.

Senate and House of Representatives, distributed under a resolution of Congress, and which have been from time to time transmitted to the several State Governments, including that of Maine.

*Documents of the House of Representatives.*

1st session 20th Congress, No. 217, 218.  
2d session 20th Congress, No. 90.  
2d session 23d Congress, No. 62.

*Documents of the Senate.*

1st session 24th Congress, No. 414.

I have the honor to be, &c.

Hon. Robert P. Dunlap,  
*Governor of Maine.*

JOHN FORSYTH,  
*Secretary of State.*

No. 10.—*The Governor of Maine to the Secretary of State.*

Sir,

*Executive Department, July 28, 1837.*

IMPELLED by a sense of duty, arising from the oversight committed to me of the rights and interests of this State, I beg leave to invite the attention of your Excellency to the subject of the Northeastern boundary of Maine. By the Federal Compact, the obligation of defending each State against foreign invasion, and of protecting it in the exercise of its jurisdictional rights up to its extreme line of boundary, is devolved upon the National Government. Permit me respectfully to inform the President that, in the opinion of the people of Maine, the justice due to this State, in this respect, has not been rendered.

Let it not be suspected that the discontents which are moving strongly and deeply through the public mind, flow from any deficiency of attachment or practical adhesion to our National Government. Without appealing to the blood so freely poured out in war by the citizens of Maine; to the privations so cheerfully endured while the restrictive measures of the Government were prostrating the most important interests of this commercial people, or to the support of the Union so cordially given through every vicissitude up to the present hour: such a suspicion, if it could arise, would be sufficiently refuted by merely adverting to the forbearance with which they have so long endured the aggressions by a foreign Government upon their sovereignty, their citizens, and their soil.

It would be easy to prove that the territory of Maine extends to the highlands north of the St. John. But that point, having been not only admitted but successfully demonstrated by the Federal Government, needs not now to be discussed. Candor, however, requires me to say that this conceded and undeniable position ill accords with the proceedings in which the British authorities have for many years been indulged, and by which the rightful jurisdiction of Maine has been subverted, her lands ravaged of their most valuable products, and her citizens dragged beyond the limits of the State, to undergo the sufferings and ignominies of a foreign jail. These outrages have been made known to the Federal Government, they have been the subject of repeated remonstrances by the State, and these remonstrances seem as often to have been contemned. It cannot be deemed irrelevant for me here to ask, amid all these various impositions, and while Maine has been vigorously employed in sustaining the Union and in training her children to the same high standard of devotion to the political institutions of the country, what relief has been brought to us by the Federal Government? The invaders have not been expelled. The sovereignty and soil of the State are yet stained by the hostile machinations of resident emissaries of a foreign Government. The territory and the jurisdiction of six millions of acres, our title to which the Government of the United States has pronounced to be perfect, have, without the knowledge of Maine, been once put entirely at hazard. Grave discussions, treaty arrangements, and sovereign arbitration have been resorted to, in which Maine was not permitted to speak, and they have resulted, not in removing the factitious pretensions, but in supplying new encouragements to the aggressors. Diplomatic ingenuity, the only foundation of the British claim, has been arrayed against the perfect right.

In the mean time a stipulation made by the Executive of the nation, without the knowledge of Maine, purported to preclude her from reclaiming her rightful jurisdiction until the slow process of a negotiation should be brought to a close. Whatever the real force of that stipulation might be, made as it was without the concurrence of the two branches of the treaty-making power, it was hoped, when it expired by the closing up of that negotiation, that a measure fraught with such hurtful consequences to Maine would not again be attempted. But that hope was to be disappointed, and now, by a compact of similar character, a writ of protection appears to have been spread by our own Government over the whole mass of British aggressions. What then has the Federal Government done for this State? May it not be said, in the language of another, "Maine has not been treated as she endeavored to deserve."

On the twenty-second day of April last, I had the honor to transmit to your Excellency certain resolves passed by the Legislature of this State, relative to the Northeastern boundary, and, in behalf of the State, to call upon the President of the United States to cause the line to be explored and surveyed, and monuments thereon erected. That this

call, made by direction of the Legislature, did not extend to the expulsion of invaders, but merely to the ascertainment of the treaty line, will, I trust, be viewed as it was designed to be, not only as an evidence of the continued forbearance of Maine, but as a testimonial of the confidence she cherished that the Federal Executive would protect the territory, after its limitation should be ascertained. That this application would meet with favor from the Federal Executive was expected, more especially as Congress had made a specific appropriation for the purpose. I will not attempt to conceal the mortification I have realized, that no reply has been made to that communication, nor any measures taken, so far as my information extends, for effecting the object proposed.

It now remains, that in the exercise of that faithfulness for which I stand solemnly pledged to the people of Maine, I should again commend to the attention of the National Executive this apparently unwelcome but really important subject.

I have therefore the honor again to request that the President will cause the treaty line upon the Northeastern limits of Maine to be run and marked, and I cannot but hope that, on a re-examination of the subject, your Excellency will concur with this State in relation to the rightfulness and the necessity of the measure proposed, as well as to all the remedies to be adopted for restoring to Maine the invaluable rights from which she has so long been debarred.

I have the honor to be, &c.

To his Excellency Martin Van Buren,  
*President of the United States.*

ROBERT P. DUNLAP.

XI.

North-eastern  
Boundary.

Arrest and Imprisonment of  
E. Greely.

Projected Railway  
between Quebec  
and St. Andrews.

No. 11.—*The Secretary of State to the Governor of Maine.*

SIR,

*Department of State, Washington, August 17, 1837.*

YOUR letter of the 28th ultimo, to the President, was duly received. It has been referred to this Department, with instructions to make a suitable reply.

Your Excellency is of opinion that the Federal Government has, for a series of years, failed to protect the State of Maine in the exercise of her jurisdictional rights to the extent of her boundary, and complains that these rights have been, in consequence thereof, subverted, the lands of the State ravaged of their most valuable productions, and her citizens subjected to imprisonment in a foreign jail. Your Excellency particularly objects to the course of the Federal Government for having, without the knowledge of the State, put entirely at hazard the title of Maine, admitted by the Government of the United States to be perfect, to the territory in question, by the resort to diplomatic discussions, treaty arrangements, and foreign arbitration, in which Maine was not permitted to speak; for having entered into a stipulation, without her consent, purporting to preclude the State from retaining her rightful jurisdiction, pending a negotiation, and for the continuance of it after that negotiation was supposed to have been concluded; and for an omission, on the part of the Executive of the United States, to comply with an application of the State, made through her Legislature, to have the boundary line between Maine and the British North American possessions explored, surveyed, and monuments erected thereon, in pursuance of the authority conferred on the President by Congress, and of a request made by your Excellency, which is now renewed.

The views which your Excellency has been pleased to take of the subject at this time, embrace measures, some of which have long since ceased to be operative, and reach back to the propriety of the stipulations entered into by the Treaty of Ghent; also, of the subsequent negotiation designed to bring those stipulations to a satisfactory result, in the mode prescribed by that Treaty—that of arbitrement. It being, as your Excellency states, the opinion of Maine that those proceedings were unjust and unwise, it is, in a matter in which she is so deeply interested, her undoubted right to say so; yet the President thinks that he cannot be mistaken in believing that no practical good can, at this time, be expected from discussion between the Federal and State Governments upon those points. That the measures referred to have not been as fortunate in their results as was hoped, is entirely true, but your Excellency may nevertheless be assured that they had their origin in a sincere desire, on the part of the Federal Government, to discharge all its duties towards the State of Maine as a member of the Union, and were resorted to in the full belief that her just rights would be promoted by their adoption.

In speaking of the restrictions imposed upon Maine in reclaiming her rightful jurisdiction, your Excellency doubtlessly refers to the understanding between the Federal Government and that of Great Britain, that each party should abstain from the exercise of jurisdiction over the disputed territory during the pendency of negotiation. Unless it be correct to say that the controversy was one that did not admit of negotiation, and that the duty of the Federal Government consisted only in an immediate resort to maintain the construction put by itself upon its own rights and those of the State of Maine, there would seem to be no reasonable objection to such an arrangement as that alluded to, whether it be viewed in respect to the interests or the pacific and just characters of the respective Governments. That this arrangement was not abrogated at the period at which your Excellency is understood to suppose that it ought to have been done, viz.: upon the failure of a settlement of the controversy by arbitration, is explained by events of subsequent occurrence. When the award of the arbitrator was submitted by the late President to the Senate of the United States, that body refused its advice and consent to the execution of the award, and passed a resolution recommending to him to open a new negotiation.



## XI.

North-eastern  
Boundary.  
Arrest and Impri-  
sonment of  
E. Greeley.  
Projected Railway  
between Quebec  
and St. Andrews.

with Great Britain for the ascertainment of the boundary according to the Treaty of Peace of 1783. That negotiation was forthwith entered upon by the executive, is still pending, and has been prosecuted with unremitting assiduity. It is under such circumstances that the Federal Executive has decided upon a continued compliance with the arrangement referred to, and has insisted also upon its observance on the part of Great Britain.

Considerations of a similar nature have induced the President to refrain hitherto from exercising the discretionary authority with which he is invested, to cause the boundary line in dispute to be explored, surveyed, and monuments to be erected thereon. Coinciding with the Government of Maine on the question of the true boundary between the British Provinces and the State, the President is yet bound by duty to consider the claim which has been set up by a foreign power in amity with the United States, and the circumstances under which the negotiation for the adjustment of that claim has been transmitted to him. It could not be useful to examine the foundation of the British claim in a letter to your Excellency. Respect for the authorities of a friendly nation compels us to admit that they have persuaded themselves that their claim is justly grounded. However that may be, the present President of the United States, upon entering on the discharge of the duties of his office, found that a distinct proposition has been made by his predecessors for the purpose of amicably settling this long-disputed controversy, to which no answer has yet been received. Under such circumstances, the President was not able to satisfy himself, however anxious to gratify the people and the Legislature of Maine, that a step like that recommended by them could be usefully or properly taken.

The clause containing the specific appropriation made by the last Congress, for exploring, surveying, and marking certain portions of the Northeastern boundary of the United States, to which your Excellency alludes, is by no means imperative in its character. The simple legislative act of placing a sum of money under the control of the executive for a designated object, is not understood to be a direction that it must in any event be immediately applied to the prosecution of that object. On the contrary, so far from implying that the end in view is to be attained at all hazards, it is believed that it merely vests a discretionary power in the President to carry out the views of Congress, on his own responsibility, should contingencies arise to render expedient the proposed expenditure.

Under existing circumstances, the President deems it proper to wait for the definitive answer of the British Government to the last proposition offered by the United States; when received, a further communication to your Excellency may be found proper; and if so, will be made without unnecessary delay.

It cannot be necessary to assure your Excellency that the omission to reply to your communication, forwarding to this Department the resolutions of the Legislature of Maine, did not, in any degree, arise either from a want of respect for the wishes of your Excellency, or from indifference to the interests of the State. When these resolutions were received, there was every reason, at no distant day to expect, what is now daily looked for, a definitive answer to the proposition just alluded to, to which the attention of the British Government had been again forcibly invited about the time those resolutions were on their passage. Under this expectation, a reply to the application from Maine was temporarily delayed; the more readily, as, about the time of its reception, the Representatives of Maine, acting in reference to one of those resolutions, had a full and free conversation with the President.

The most recent proceedings relative to the question of boundary were shown to them in this Department by his directions, and the occasion thus afforded was cheerfully embraced of offering frank and unreserved explanations of the President's views.

Of the recent events which have called the attention of the State of Maine to the question of the northeastern boundary, and which have been brought by it to the notice of the President, one, the arrest and imprisonment of Mr. Greeley, has already been made the subject of communication with your Excellency. All that it was competent for the Federal Executive to do, has been done. Redress has been demanded, will be insisted upon, and is expected from that authority from whom alone redress can properly be sought. The President has followed the same course that was pursued by one of his predecessors, and which was understood to be satisfactory to the State of Maine, under circumstances of a somewhat similar character. In respect to the other, the projected construction of a railroad between St. Andrews's and Quebec, a representation has been addressed to the British Government, stating that the proposed measure is inconsistent with the understanding between the two Governments to preserve the *status quo* in the disputed territory until the question of boundary be satisfactorily adjusted, remonstrating against the project as contrary to the American claim, and demanding a suspension of all further movements in execution of it. No answer has yet been received to this communication. From an informal conversation between the British Minister at Washington and myself, at the Department of State, the President is, however, firm in the conviction that the attempt to make the road in question will not be farther prosecuted.

I am, in conclusion, directed to inform you that, however unbounded may be the confidence of the Legislature and people of Maine in the justice of their claim to the boundary contended for by the United States, the President's is not less so; and your Excellency may rest assured that no exertions have been, or shall be spared on his part, to bring to a favorable and speedy termination, a question involving interests so highly important to Maine and to the Union.

I have the honor to be, &c.,

JOHN FORSYTH.

His Excellency Robert P. Dunlap, *Governor of Maine.*

No. 12.—*The Secretary of State to the Governor of Maine.*

Sir,

*Department of State, Washington, August 25, 1837.*

I HAVE the honor to transmit to your excellency, by direction of the President, the copy of a note from the British Minister at Washington, dated yesterday, stating that the Government of Her Britannic Majesty has been pleased to direct the immediate discontinuance, by the colonial authorities of Lower Canada and New Brunswick, respectively, of all operations connected with the projected railroad between the cities of Quebec and St. Andrew's.

Mr. Fox took occasion, on Wednesday last, to inform me that Mr. Greely had been discharged from imprisonment at Fredrickton; a fact of which, doubtlessly, your excellency has been sometime since apprized.

I have the honor to be, &amp;c.

JOHN FORSYTH.

*His Excellency Robert P. Dunlap, Governor of Maine.*

XI.

North-eastern  
Boundary.Arrest and Impri-  
sonment of  
E. Greely.Projected Railway  
between Quebec  
and St. Andrews.No. 13.—*Mr. Forsyth to Mr Fox.—Department of State, Washington, March 23, 1837.*

[See VI.—Inclosure 1 in No. 1. Page 49.]

No. 14.—*Mr. Fox to Mr Forsyth.—Washington, March 28, 1837.*

[See VI.—Inclosure 2 in No. 1. Page 50.]

No. 15.—*Mr. Fox to Mr. Forsyth.*

Sir,

*Washington, August 24, 1837.*

WITH reference to the official note which, by direction of the President, you addressed to me on the 23rd of March last, respecting a projected railroad between the cities of Quebec and St. Andrew's, which, it was apprehended, would, if carried into effect, traverse a part of the territory at present in dispute between Great Britain and the United States, I am now enabled to inform you that, in consideration of the arguments and observations contained in your note, Her Majesty's Government has been pleased to direct the colonial authorities of Lower Canada and New Brunswick, respectively, to cause all operations connected with the above-mentioned project, within the limits of the disputed territory, to be immediately discontinued.

I have the honour to be, sir, with high respect, &amp;c.

*Hon. John Forsyth, Secretary of State.*

H. S. FOX.

No. 16.—*Mr. Stevenson to Viscount Palmerston.*

(Extract.)

*23, Portland Place, August 10, 1837.*

THE undersigned will avail himself of the occasion to remind Lord Palmerston of the urgency which exists for the immediate and final adjustment of this long-pending controversy, [respecting the north-eastern boundary,] and the increased obstacles which will be thrown in the way of its harmonious settlement by these repeated collisions of authority, and the exercise of exclusive jurisdiction by either party within the disputed territory.

He begs leave, also, to repeat to his Lordship assurances of the earnest and unabated desire which the President feels, that the controversy should be speedily and amicably settled, and to express the anxiety with which the Government of the United States is waiting the promised decision of Her Majesty's Government upon the proposition submitted to it as far back as July, 1836, and which the undersigned had been led to believe would long since have been given; and he has been further directed to say, that should this proposition be disapproved, the President entertains the hope that some new one, on the part of Her Majesty's Government, will immediately be made for the final and favourable termination of this protracted and deeply-exciting controversy.

The undersigned begs Lord Palmerston to receive renewed assurances of his distinguished consideration.

A. STEVENSON,



## XII.

Correspondence between the State of Maine and the General Government, under a Resolution of the House of Representatives of Maine, passed March 3, 1832. Message of the Governor and Reports and Proceedings of the Legislature of Maine, respecting the North-eastern Boundary, the Arrest of Greely, and Fortifications.—1838.

No.1.—*J. T. Sherwood, Esq. to John Bidwell, Esq.—(Received April 14.)*

*British Consulate, Maine and New Hampshire,  
Portland, March 14, 1838.*

Sir,

THE only intelligence which has lately transpired within this Consulate in relation to the North-eastern Boundary, being the correspondence between the Commissioners on the part of the State of Maine under a Resolve of its Legislature, passed March 3rd, 1832, and the late Secretaries of the Treasury and Navy on the part of the General Government of the United States, heretofore kept secret, I beg leave to inclose\* the same to you for the information of his Lordship Viscount Palmerston.

*John Bidwell, Esq.  
&c. &c. &c.*

I am, &c.  
(Signed)

J. T. SHERWOOD.

No. 2.—*J. T. Sherwood, Esq. to John Bidwell, Esq.—(Received April 14.)*

*British Consulate, Maine and New Hampshire,  
Portland, March 15, 1838.*

Sir,

THE Documents lately received from the General Government of the United States, by the Governor of the State of Maine, in relation to the North Eastern Boundary, proposing to have a Conventional Line run by a scientific Board of Commissioners, to be mutually agreed on by Her Majesty's Government and that of The United States, having been, on the 14th instant, communicated to the Legislature of this State for its consent, I have to acquaint you, for the information of my Lord Palmerston, that His Excellency Edward Kent, the present Governor, in his Message accompanying the said Documents, strongly disapproves of the State giving its consent to any such agreement being entered into.

The subject, however, has not yet been acted upon by the Legislature, but, in my opinion, from the feelings of that Body, this recommendation or disapproval will be fully adhered to, and the line insisted upon being run according to the Treaty.

I also have the honour to inclose you a Newspaper, "Maine Daily Journal," (published this day) containing a report of the Committee to whom was referred so much of the Governor's Address to the Legislature, at his inauguration over the State of Maine, (copies of which I forwarded you) as relates to the North-Eastern Boundary, and to the arrest of E. S. Greely, in Her Majesty's Province of New Brunswick.

*John Bidwell, Esq.*

I have, &c.,  
(Signed) JOS. T. SHERWOOD.

#### Inclosure in No. 2.

THE joint select Committee, composed of Messrs. Osgood, Boutelle, Ham, Higgins, Whipple, Sheldon, Tenney, Dudley, Levensaler, Goodenow, Roberts, Small, Fowler, Harris and West, to whom was referred so much of the Governor's address as relates to the North Eastern Boundary; and also the papers and correspondence relating to the arrest of E. S. Greely, by the officers of the British Government, in the Province of New Brunswick—have had the same under consideration, and ask leave to

#### REPORT.

THE deliberations of your Committee led them to the conclusion that it was neither necessary nor expedient for them to enter upon an elaborate argument to prove the validity of our claims to the territory in dispute. That has been so frequently and ably done by committees of previous Legislatures, and in various other ways, that it is presumed no citizen of the United States, who knows any thing of the subject, can entertain a shadow of a doubt in relation to it. Your Committee will, therefore, waive all discussion upon this

\* The Inclosures here referred to, are a letter from Mr. Kent to the Speaker of the House of Representatives, communicating the "Report of the Commissioners who were appointed under a Resolve respecting the Territory lying North and East of the Rivers St. John and St. Francis, passed March 3, 1832," and the other Documents therein referred to. See Inclosure No. 1 in No. 3

XII.  
North-eastern  
Boundary.  
Arrest of E. Greely.  
Fortifications.

point, adopting in its broadest import, the language of the Governor, that "If there is any meaning in plain language, and any binding force in treaty engagement,—if recognition and acquiescence for a long series of years, on the part of Great Britain, in one uniform expression and construction of the boundaries of her Provinces of Canada and Nova Scotia—is of any weight, then the right of Maine to the territory in dispute, is as clear and unquestionable as to the spot upon which we stand. It requires, indeed, the exercise of charity to reconcile the claim made by Great Britain with her professions of strict integrity and high sense of justice in her dealings with other nations; for it is a claim of very recent origin, growing from an admitted right in us, and proceeding, first, to a request to vary our acknowledged line for an equivalent, and then, upon a denial, to a wavering doubt, and from thence to an absolute claim."

It has required, and still requires, all the talents of her statesmen and skill of her diplomatists, to render that obscure and indefinite which is clear and unambiguous; and we "cannot for a moment doubt, that if the same question should arise in private life, in relation to the boundaries of two adjacent farms, with the same evidence and the same arguments, it would be decided by any court, in any civilized country, without hesitation or doubt, according to our claim."

Indeed, upon a review of the whole history of the North Eastern Boundary, the conviction fixes itself upon the minds of your Committee, that the British Government has been all along conscious of the weakness of their claim to the disputed territory, and has been seeking to strengthen it by the exercise of jurisdictional authority over that territory.

The first intimation of a claim to a rightful exercise of sovereignty or jurisdiction, on the part of Great Britain, your Committee believe is to be found in a letter from Mr. Addington, the British Minister at Washington, to Mr. Clay, dated May 23, 1825; and the doctrine is first distinctly avowed in a letter from Mr. Vaughan, the successor of Mr. Addington, in a letter to Mr. Clay, dated 17th Sept., 1827. In both these letters, however, it is worthy of notice, that the exercise of acts of sovereignty over any part of the disputed territory, except the "Ancient British Settlement" of Madawaska, as Mr. Vaughan terms it, is rather hesitatingly asserted. Indeed, Mr. Addington admitted that the exclusive jurisdiction over the Aroostic territory could not be claimed by either party. He says "both parties claim, and it appears have exercised an equal right over it." But it seems that, in 1827, the British Government not only determined to claim the actual jurisdiction over other parts of the Territory besides Madawaska, but actually attempted its exercise in those parts, by seizing the property of American citizens resident on the Aroostic river, thirty miles from the British line, and by the actual arrest and imprisonment of another citizen, John Baker, who lived on the Merumticook River, many miles westward of the Madawaska. From that time to the present, your Committee believe, that the arrogant and unjustifiable pretension to exercise an exclusive jurisdiction over the whole disputed territory has not been abandoned, though sometimes partially suspended in compliance with a conventional arrangement between the two Governments, but again resumed the moment occasion was presented. Nor are these gross assumptions of sovereign authority the mere acts of colonial officers. They have been sustained by the British Government, and defended by her ministers at Washington.

In reviewing the history of the extraordinary claims of the British Government, and the unwarrantable doctrines of British diplomacy, in relation to the disputed territory, your Committee are bound in justice to state, that in every stage of these encroachments, the people of Maine have earnestly and [earnestly] denied their validity, and have been constant and unremitting in their demands upon the United States' Government for the protection and preservation of their territorial rights. Nor has the General Government been wholly inattentive to those repeated demands.

When the claim to exercise jurisdiction, by the British Government, was first intimated through Mr. Addington and Mr. Vaughan, to Mr. Clay, then Secretary of State, he strongly resisted the new and strange doctrine. In a letter dated November 17, 1827, addressed to Mr. Vaughan, and transmitting to him information of the encroachments upon the Territory of Maine by provincial officers, Mr. Clay earnestly demanded an explanation. This demand elicited a communication from Mr. Vaughan, dated November 21, 1827, distinctly asserting the right to exercise jurisdiction in the disputed territory. To this Mr. Clay replied at great length, under date of February 20, 1828. From this letter we make the following extract:—"The Undersigned cannot agree with Mr. Vaughan, in the conclusion to which he has brought himself, that the sovereignty and jurisdiction over the territory in dispute have remained with Great Britain, because the two Governments have been unable to reconcile the difference between them respecting the boundary. Nor can he assent to the proposition stated by him, that the occupation and possession of that territory was in the Crown of Great Britain prior to the conclusion of the Treaty of 1783, if it were his intention to describe any other than a constructive possession. Prior to that epoch, the whole country now in contest was an uninhabited waste. Being then, an undisputed part of the territory of the King of Great Britain, he had the constructive, and the right to actual possession. If, as the Government of The United States contends, the disputed territory is included within their limits, as defined in the Treaty of 1783, the prior right of Great Britain became, thereby, transferred to the Government of the United States, and it drew after it the constructive possession of the disputed territory. The settle-

## XII.

North-eastern  
Boundary.

Arrest of E. Greely.  
Fortifications.



XII.  
 ———  
 North-eastern  
 Boundary.  
 Arrest of E. Greely.  
 Fortifications.

ment on the Madawaska, the earliest that has been made within its limits, was an unauthorized intrusion on the property of the State of Massachusetts, to which the Territory then belonged, by individuals, posterior to the Treaty of 1783. That settlement of those individuals could not affect or impair, in any manner whatever, the right of the State of Massachusetts, or give any strength to the pretensions of the British Government. The settlers, in consequence, probably of their remoteness and their quiet and peaceful conduct, do not appear, for a long time, to have attracted the attention of either the State of Massachusetts or that of the adjoining British Province. It was not until the year 1790 that the Government of New Brunswick took upon itself to grant lands to the intruders. No knowledge of these grants is believed to have been obtained, until recently, by either the Government of Massachusetts or Maine, or that of the United States. The Provincial Government had no color of authority to issue those grants for lands then lying within the State of Massachusetts. It cannot be admitted that they affected the rights of the United States, as acquired by the Treaty of Peace." And Mr. Clay concluded his communication with the following emphatic protest:—"The Undersigned must protest, in behalf of his Government, against any exercise of acts of exclusive jurisdiction, by the British authority, on the Madawaska, the Aroostic, or within any other part of the disputed territory, before the final settlement of the question; and he is directed to express the President's expectation that Mr. Vaughan will make such representations as will prevent, in future, any such jurisdiction from being exerted."

Again, in a letter from Mr. Clay to Mr. Vaughan, dated March 17, 1828, he uses this language—"It follows from the view now presented, that the Undersigned cannot subscribe to the opinion that the jurisdiction of the British Government through its provincial authority, over the disputed territory, has continued with Great Britain, notwithstanding the Treaty of 1783. To maintain that opinion, Mr. Vaughan must make out either first that the terms of the Treaty do exclude altogether the disputed territory; or, that, if they include it, actual possession of the disputed territory was with Great Britain in 1783. Neither proposition can be established." In the conclusion of this letter, Mr. Clay again says, that he is charged by the President "to protest against the exercise of all and every act of exclusive jurisdiction on the part of the Province of New Brunswick, and to announce to Mr. Vaughan, that the Government will be responsible for all the consequences, whatever they may be, to which any of those acts of jurisdiction may lead."

The same views continued to be urged upon the British Ministry, through the American minister, Mr. Lawrence, with force and ability, throughout the Summer of 1828.

Your Committee do not find, that any correspondence with the British Government, in relation to the northeastern Boundary, was had from the close of the year 1828 until 1832. At least, they believe, that none has been made public; and as repeated calls by both houses of Congress for the publication of all the correspondence in relation to that subject have been made, the presumption is, none was had. But if any such correspondence does exist, your Committee cannot for a moment believe that any surrender of the principle so earnestly enforced by Mr. Clay, will be found to have been made by the National Administration during that period. At any rate, your Committee are quite certain that no such surrender has been, nor ever will be, sanctioned by the people of Maine.

For many years, until recently, nothing has occurred to bring into discussion the question of actual or rightful jurisdiction. If, however, proof were needed by your Committee to show that the British Government have not abandoned that doctrine, it is amply furnished by the two successive arrests of Mr. Greely.

When the arrest and imprisonment of Greely was communicated to the General Government by Governor Dunlap, Mr. Forsyth addressed a communication to Mr. Stevenson, our Minister at the British Court, on the subject, in which he says, "it is expected that the Government of Great Britain will promptly mark its disapproval of this act of violence, committed by the provincial authorities, so inconsistent with those amicable feelings under which the negotiation has been hitherto conducted, and so essential to bring it to a happy termination."

Mr. Stevenson, in his communication to Lord Palmerston, Her Britannic Majesty's Secretary of State for Foreign Affairs, dated August 10, 1837, on the same subject, says: the mutual understanding between the two Governments on the subject (of the boundary) and the moderation which both Governments have manifested, forbid the exercise by either, of such high acts of sovereign power as those which have been exerted in the present case." Again, in the same communication, "wherever then, the right of jurisdiction and sovereignty over this territory may dwell, the Undersigned feels satisfied that Her Majesty's Government cannot fail to perceive, that the arrest and imprisonment of Mr. Greely, under the circumstances of the case, was not only a violation of the rights of the United States, but was wholly irreconcilable with that moderation and forbearance which it is so peculiarly the duty of both Governments to maintain until the question of right shall be definitively settled."

And our minister demands "as a matter of justice and right, the immediate discharge of Mr. Greeley from imprisonment, and suitable indemnity for the wrongs he has sustained."

And when a second arrest and imprisonment of the same agent and for the same cause was made, Mr. Forsyth, in the instructions of our Government to its minister, Mr. Ste-

venson, uses the following emphatic language: "You will remonstrate in a respectful but earnest manner, against the second violation of the rights of Maine, in the person of her agent, and demand the prompt release of Mr. Greely, with such additional indemnification as the nature of the outrage calls for." And Mr. Stevenson, in pursuance of these instructions did remonstrate against these violations of the rights of Maine, and claimed indemnity.

Notwithstanding all these complaints and calls for redress, the British Government have not even attempted a justification; a strong and conclusive proof that no arguments could be found by its agents, which they believed would bear examination, but on the other hand, the admission of Mr. Fox, the British Minister at Washington, and the subsequent conduct of the officers of the Provincial Government, in the repeated release of Mr. Greely, are incontestible evidence of the absolute want of any foundation to their claim.

When Mr. Greely has been arrested and imprisoned, for alleged violations of the rights of the Province and the Crown, no attempt has been made to bring him to a trial for any offence whatever against their laws; and your Committee are satisfied from the fact, that the British Government are so aware of the total want of title to the territory, as to deem it an act of hazard to persist in carrying the outrage against our citizens to a greater extent. Still the claim is not relinquished; and we are sorry to say that the repeated and earnest applications to the United States Government for relief have been in vain. Year after year we have patiently waited, confidently hoping that our territorial and jurisdictional rights would be protected and defended; and our fellow-citizens allowed, unmolested, to exercise all the privileges secured by the Constitution to every individual in the union. But we regret to add, that nothing but disappointment has followed our fondest hopes of redress and remuneration.

Our citizens are imprisoned with impunity, and when they are released from a long confinement, without even being brought to a trial, they are left at the prison door in penury to return to their homes, from which they have been cruelly torn—our valuable lands occupied by foreigners, and the timber pillaged and destroyed; and we have been compelled to fold our arms and look on and witness these flagrant violations of our dearest rights. True, our General Government have made demands for "disapproval" and "indemnity," but the people of this State can no longer be satisfied with the "protests" and "demands" made, it would seem, only to quiet our citizens, and apparently forgotten as soon as the aggressions which have given rise to them have been suspended.

It being a question entirely settled in the opinion of our General and State Governments, that the territory put in dispute by the unwarrantable claim of Great Britain, on which are thousands who are in reality citizens of this State, is entitled to the protection of the Government; no doubt is, or can be entertained, of the propriety of sending an agent to enumerate the inhabitants upon this territory. In strict obedience to the authority of the State, Mr. Greely was sent to perform this service, and was arrested and incarcerated for alleged acts of aggression upon a part of the territory in the possession, and under the jurisdiction of the Province; and although he constantly protested against the authority thus exercised, and asserted the right to fulfil the business of his agency, he was released by order of the Lieutenant-Governor of New Brunswick, under a pretence that the lawful act under which he was engaged would no longer be persisted in.

Your Committee feel fully authorized in declaring, that no department of our General or State Governments, nor the agent on whom the unwarrantable power was exercised, have in any manner induced the belief, that the original purpose entertained in sending Mr. Greely on to that part of our State, would not be rigidly adhered to. And your Committee deem it proper for this State to demand of the General Government, protection in carrying into full effect their design, which has been attempted, and which was frustrated by the unlawful exercise of foreign power—the more so as the claim of Maine has been repeatedly, and for a long time made, and fully and unequivocally admitted, by the United States.

Nor do our grievances stop here. Within a few months, Her Britannic Majesty's troops, without authority, have been marched over this our territory, on their way from one of her provinces to another. This your Committee believe to be an exercise of power, new and aggravated; a new and aggravated infringement of the jurisdiction and sovereignty of the State, which she is entitled to hold, and a gross violation of those rights which your Committee believe to be guaranteed by the Federal Constitution.

The British Minister informs Mr. Forsyth, that this marching of troops over our territory "is undertaken in pursuance of superior orders." He does not condescend to ask permission of our Government for this outrage upon our territorial rights, but merely informs him of their intention to pass their troops over our Territory. And in December, after the British troops had passed, or were passing, Mr. F. communicates the fact to Governor Dunlap, and uses this remarkable language: "Although the necessity of explaining a circumstance so little likely to be misapprehended by the Government or people of the United States, or of individual States, is not apparent, the motive of that explanation should be duly appreciated." Is it then of no consequence, that in time of peace, one nation transports its troops and munitions of war over the territory of another? And how were these troops passed up? Not, as it is said, by the "route heretofore used by the British for the transmission of the mail, and for other ordinary communications between the two countries," but by cutting out a new road, as your Committee are credibly informed, through our territory, for a distance of forty miles, and over which they transported their troops and munitions of war. Your Committee cannot but view this act, under all its cir-

XII.

North-eastern  
Boundary.

Arrest of E. Greely.  
Fortifications.



## XII.

—  
North-eastern  
Boundary.  
Arrest of E. Greely.  
Fortifications.

cumstances, as an outrage on our territorial rights, of an aggravated character, and against which this State ought most solemnly to protest.

Several years ago, without consulting the United States Government, or the authorities of the State, the British Government appointed a "Warden" of the territory, whose business it seems to have been, to take the entire charge of this whole territory. When we say a warden was appointed without the knowledge of the United States Government, we mean to be understood to say, that after a careful search through the correspondence, we find no intimation that our General Government had ever concurred in such an appointment. But it is a fact worthy of remark, that Sir A. Campbell, in his letter to Mr. Vaughan, the British Minister at Washington, under date of January 20th, 1834, says, "the warden, Lieutenant Maclauchlan, was appointed to the wardenship of the country with the knowledge and concurrence of the President." So long ago as September, 1833, we find the same warden, in his letter to Sir A. Campbell, complaining that the proper agents of Maine and Massachusetts interfered with his charge of the territory, by undertaking to give licence to our people, on this territory, to cut timber. This warden still continues his wardenship, and was active in the arrest of Mr. Greely. It presents a somewhat singular case that this warden should have the effrontery to complain of the acts of our authorized agents, unless he had the countenance of the General Government, and yet we would be slow to believe that if this warden was appointed by the concurrence of the President of the United States, he should have withheld information of the fact from the Government of this State so long a time.

Your Committee are satisfied, from all the information they have obtained, that the inhabitants on this territory, including Madawaska, are well disposed towards this State, and are desirous to be released from British thralldom, and to have the benefit of our laws and institutions.

But we can have no access to them, or they to us, except by passing over British ground, or passing through the wilderness. If the road leading from the military road, and which has been already opened and partially made to the Aroostic, should be continued to the mouth of the Madawaska, it would open a communication between the inhabitants of the town of Madawaska and the adjacent country, and with the Penobscot River, as well as the whole eastern section of our State. This State will then be able to do, what it long since ought to have done, extend the protection of its laws to all its inhabitants. It has been the policy of the British to spare no pains or expence in making and completing a good road on and along the St. John's River, from Fredericton to the town of Madawaska, and thus brought the inhabitants of this town and vicinity into contact and close communication with Fredericton. Your Committee find, that so long ago as 1831, the Legislature of this State authorized the land agent to make a road from the military road of St. John's in conjunction with the land agent of Massachusetts, and appropriated ten per cent. of the sales of timber and land for this object. But the resolve of 1832, authorizing commissioners to cede a portion of our territory for an ample indemnity, introduced a new policy in relation to this territory, and threw doubt and uncertainty over the whole subject—paralyzed the efforts of Massachusetts, and disheartened our people living on this territory, by producing an impression that they were abandoned. Since that time little progress has been made in opening this road. The tract of country through which this road will pass, is known to be of the first quality for settling, and will soon be purchased and taken up by actual settlers. The road will soon become a great thoroughfare for our people in Madawaska and vicinity, and enable them to find a profitable market for their productions at Bangor. In every view we are able to take of the subject, we are clear that every consideration of sound policy requires, that this road should be opened and made; and we believe it to be vitally important to the settlement of this long vexed question, inasmuch as it presents the only practicable mode by which this State can effectually extend the protection of its laws, to the people of this territory. The cost of opening a winter road, as proposed, if one half of the expence is borne by Massachusetts, will not exceed 3,500 dollars. We believe the people of this State are tired of the diplomacy and delay of the General Government, in relation to this territory, and loudly call on the Legislature to have some decided action, to take some effectual measures, to have our laws extended to all the inhabitants of our State, and over every portion of it, and to demand of the General Government that protection and support in the execution of our laws, which it is bound by the Constitution to afford.

Your Committee have dwelt somewhat longer upon the subject of jurisdictional-claims than may appear necessary at the first view in the persuasion that it now presents one of the most important features of the long protracted controversy, in relation to our north-eastern boundary. If the Government of New Brunswick are permitted to exercise uncontrolled jurisdiction over that territory, it is of little consequence to the British Government whether the Boundary ever be settled. Indeed, it is obvious, that every possible scheme of procrastination will be resorted to for avoiding a settlement, so long as doubts exist, that their claim may not be sustained by any fair mode of adjustment.

It is well known, that the chief value of the territory in dispute, to Great Britain, consists in its lying in the only feasible line of communication between Halifax and Quebec; and also as furnishing at the forks of the Madawaska and St. John's Rivers, a military position of great natural advantages. Being persuaded, as that Government must needs be, that the north-west angle of Nova Scotia is the north-east angle of Maine, as described in the Treaty of 1783; and that that angle lies far to the north of Madawaska, and forms the true north-east boundary of the United States, it is but natural to presume that she will con-

tinue to interpose obstacles in the way of its final establishment. In conclusion, your Committee ask leave to present the annexed resolutions.

XII.

North-eastern  
Boundary.

Arrest of E. Grleey  
Fortifications.

T. BOUTELLE,  
EBEN'R HIGGINS, } of the Senate.  
S. S. WHIPPLE,

P. SHELDON,  
JOHN S. TENNY,  
R. K. GOODENOW,  
NORMAN E. ROBARTS, } of the House.  
PETER T. HARRIS,  
THOMAS FOWLER, JR.  
JOHN WEST,  
BENJ. DUDLEY.

Resolved, That the Legislature heartily respond to the sentiments of the chief Magistrate of the State, in recommending an earnest demand upon the General Government, to put an end to the intrusive and unjustifiable jurisdiction over our citizens and soil, by a foreign power.

Resolved, That perceiving no ground of hope, that great Britain will yield to the rightful claims of Maine, while by procrastination or diplomacy it can be avoided, we deem it the imperative duty of the General Government to run and establish the line according to the Treaty of 1783, and that the State demands an early accomplishment of this object.

Resolved, That the use which has been made of the territory by the British Government, as a thoroughfare for its troops, and a place on which they have encamped without authority, is a palpable outrage upon the sovereignty of this State, and of the United States, and a fresh cause of complaint.

Resolved, That the Government and all executive officers ought to take prompt and effectual measures, to cause all our laws to be rigidly enforced against persons who may assume, or attempt to violate the right of the State, or of the citizens occupying the disputed territory, and that measures be taken to arrest offenders against those laws, and cause them to be brought to trial before our own judicial tribunals.

Resolved, that the opening of a winter road, from the Aroostic to the mouth of Madawaska River, is all important, as enabling that State to extend the protection of its laws to the people of Madawaska and vicinity; and that Massachusetts be requested to co-operate with this State in effecting this object.

No. 3.—*J. T. Sherwood, Esq. to John Bidwell, Esq.*

(Extract.)

*Portland, March 22, 1838.—(Received May 21.)*

IN order that Lord Palmerston may be kept informed of all that is interesting to Her Majesty's Government, in relation to the North-eastern Boundary,—I ask the honour to transmit to you the inclosed reports Nos. 1 and 2 on that subject.

Inclosure 1 in No. 3.

*To the Speaker of the House of Representatives.*

IN compliance with an order of the House of Representatives, passed the 23rd ultimo, I herewith communicate the "Report of the Commissioners who were appointed under a resolve respecting the territory lying north and east of the rivers St. John and St. Francis, passed March 3, 1832."

(Signed)

EDWARD KENT.

*Council Chamber, February 27, 1838.*

## REPORT.

Sir,

*Portland, January 14, 1833.*

WE have the honor to enclose copies of four letters bearing date July 4, July 10, July 25, and August 21, 1832, being all the letters relating to our north-eastern boundary, which have passed between the Secretaries of State of the treasury and of the navy, on the one part, and ourselves on the other, since our return home at the close of June, The mail is also this day charged with a letter addressed to you, bearing even date with the present, and containing the provisional agreement referred to in the letter of July 25th to us, and ours of August 21st in reply. While the time and manner of laying that agreement, with the letter which accompanies and contains it, before the Legislature, rests wholly with yourself, we cannot forbear suggesting the inquiry, whether the adoption of a



XII.

North-eastern  
Boundary.Arrest of E. Greely.  
Fortifications.

course, which should render the whole proceeding public, might or might not in the present stage of the negotiation operate injuriously to the interests of the State. Having made the suggestion, we respectfully submit the whole matter to the wisdom of the Executive and the Legislature.

It will be perceived, on reference to the provisional agreement, that we have carefully abstained from entering into any stipulation whatever in regard to the rights or claims of Massachusetts. The reasons for adhering to this course are too obvious to require any allusion to them on our part. The whole territory north and east of the St. John and St. Francis, claimed as lying within the true exterior limits of the State of Maine, contains, by calculation made by order of the Government, according to the best data in its possession, 2,195,360 acres, mountains, lakes and rivers included. This fact, we have thought it proper to state to you, in order that the Legislature may be the better enabled to form a satisfactory judgment in regard to the extent and value of the claim and jurisdiction, proposed to be ceded, on the one part, and to the adequacy in any event of the indemnity, proposed to be pledged on the other.

We are, &amp;c.

(Signed)

WM. P. PREBLE.  
REUEL WILLIAMS.  
NICHOLAS EMERY.*His Excellency Samuel E. Smith, Governor of Maine.*

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*To William Pitt Preble, R. Williams, and N. Emery, Esqrs.*

Gentlemen,

*Washington, July 4, 1832.*

THE Senate having finally acted upon the message of the President respecting the north-eastern boundary, it is desirable to know, and we therefore have the honor to inquire, if the Commissioners on the part of the State of Maine are now prepared to resume the conferences which were suspended at their instance, for that event.

We have the honor to be, &amp;c.

(Signed)

LOUIS M'LANE.  
LEVI WOODBURY.

Gentlemen,

*Portland, July 10, 1832.*

WE have this day had the honor to receive your note of the 4th instant. In reply, we repeat to you, that we are ready, on our part, to execute the project we submitted to your consideration on the 6th ultimo. We shall also be ready to suggest to you, if wished, our views as to such modifications, &c. of the line as we think desirable in case it should be found wholly impracticable to have the true boundary run and marked, as well as to receive and consider any suggestions you may please to make to us on the subject.

We have the honor to be, &amp;c.

(Signed)

WM. P. PREBLE.  
REUEL WILLIAMS,  
NICHOLAS EMERY.*The Hon. Louis M'Lane, Secretary of the Treasury.  
Levi Woodbury, Secretary of the Navy.*

Gentlemen,

*July 25, 1832.*

WE have the honor to enclose, duly executed by us, a copy of the agreement which you had prepared, making a slight alteration rendered necessary by the resolution of the Senate, advising a further negotiation. You will please to send a counterpart executed by you as soon as possible, together with information at what time it will probably be placed under the consideration of your Legislature, whose action on the subject would seem to be required before the matter can be submitted to Congress.

(Signed)

EDWARD LIVINGSTON,  
LOUIS M'LANE.  
LEVI WOODBURY.

*Wm. P. Preble,  
Reuel Williams,  
Nicholas Emery, Esq.* } *Commissioners, &c.*

Gentlemen,

*Portland, August 21, 1832.*

WE have had the honor to receive your note of the 25th ultimo, with the document which it enclosed. Agreeably to your request, we now transmit a counterpart executed by us.

The Legislature of Maine will not be in session prior to next January, and the subject cannot well come under their consideration until after the organization of the Government shall have been completed. Should the state of the intended new negotiation in the opinion of the President render a postponement of the communication to our Legislature desirable, we would in that case suspend the communication on your suggestion until the first of February next,

We have the honor to be, &c.

(Signed)

WM. P. PREBLE,  
REUEL WILLIAMS.  
NICHOLAS EMERY.

*Edward Livingston, Esq., Secretary of State.*  
*Louis McLane, Esq., Secretary of the Treasury.*  
*Levi Woodbury, Esq., Secretary of the Navy.*

XII.  
—  
North-eastern  
Boundary.  
Arrest of E. Greely's  
Fortifications.

Sir,

Portland, January 14, 1833.

WE have the honor to transmit to you, to be laid before the Legislature, a provisional agreement relating to our north-eastern boundary, entered into in August last, between the Secretaries of State of the treasury and of the navy, in behalf of the United States on the one part, and ourselves as Commissioners in behalf of the State of Maine, on the other.

After the solemn and formal establishment of the monument at the source of the River St. Croix, in 1798, by the authority of the United States and Great Britain, nothing seemed to remain but to survey and mark the line of the boundary according to the plain, precise, and explicit language of the Treaty of 1783. For at that day it was admitted by the official agent of the British Government, that the line could only be where Maine now contends, and has ever contended, it is. Had the state of Massachusetts, therefore, been then so disposed, she might without serious obstacle or difficulty have marked out her exterior boundary, and afterwards, and until Maine became a separate state, might without giving occasion for the slightest complaint to the adjoining British Colonies, have maintained uninterrupted and exclusive jurisdiction over the whole extent of our territory. Such a course would have saved our infant state much trouble and vexation, and would seem to have comported with the usual vigilance and sagacity of the parent commonwealth.

When, however, in 1820, Maine became a separate State, she found her boundaries and territory still unsurveyed and unexplored; while far within her limits had been suffered to spring up, unnoticed by the authorities of the parent State established and permanent settlements of several hundred souls, holding their lands under grants from New Brunswick of nearly thirty years standing, and yielding a reluctant, but unresisting obedience to British laws; Maine also found, that under color of those stipulations in the treaty of Ghent, which provide for surveying and marking certain boundaries, in conformity to the line of demarkation prescribed by the Treaty of 1783, a claim for about eleven millions acres of her territory had been set up in behalf of Great Britain, and that this claim, though a gross and palpable fraud upon the stipulations of the Treaty of Ghent, and demonstrably in violation of the Treaty of independence, had not been promptly, and at once repelled and rejected by the American Government, but had become a subject of grave and solemn discussion before the Commissioners of the two Governments. Again, in 1827, Maine further learned that the United States and Great Britain had, by convention agreed to refer to an Arbiter, the questions which had arisen out of the claim made in behalf of Great Britain, and that the decision of the Arbiter on the questions submitted, was to be final between the parties. Under such an arrangement, every thing must depend upon the position and character of the person selected to decide between the parties. If the Arbiter to be selected should think himself at liberty to advert to his own condition, or to be governed in framing a decision by motives of state policy, or by any other considerations than those of the justice of the case and the rights of the parties, it was evident one third of the territory of Maine was placed in imminent jeopardy. But fortunately for the State, the Arbiter actually selected, instead of sanctioning to their full extent, the pretensions of Great Britain, thought proper to restrain himself to a recommendation, advising the parties to adopt for boundary, a line described by him, leaving, beyond the limits, of Maine the extreme corner of her territory, containing by calculation about two millions two hundred thousand acres, and assigning to the British Government about one-fifth of the territory to which it had laid claim.

We have adverted in this place, to some few of the more prominent facts in the history of our boundary controversy, in order that, taken in connection with other facts within the recollection of all, they might enable us to perceive how forbearance has emboldened the spirit of encroachment,—how procrastination on our part, instead of contributing to remove the evil, of which we have so much reason to complain, has constantly been the occasion of aggravating it, and how, at every step since taken, the question has become more and more complicated and embarrassed. Meantime, new causes of trouble have begun rapidly to develop themselves. There is danger, lest our border difficulties assume a serious aspect. Under these circumstances the peace of the United States, the internal tranquillity of the State itself—its growing importance, its general and commercial



## XII.

North-eastern  
Boundary.

Arrest of E. Greely.  
Fortifications.

prosperity, would seem imperiously to require, that the subject matter of this protracted and irritating dispute should be amicably arranged without further delay, if it can be done without too great a sacrifice. In fact, so grave and various were the considerations arising out of the actual state of the controversy a year since, that many who stand high in the confidence of the country, were of opinion, that it would be judicious on the part of Maine, as well as of the United States, to acquiesce in the advice of the Arbitrator. Against the acceptance and ratification of the award by the Government of the United States, the Legislature of Maine, on mature consideration of the subject, with great unanimity, solemnly protested; but apprehensive, lest the award should be ratified notwithstanding such protest, if the State persisted in rejecting all advances made towards an amicable adjustment, the Legislature, in a spirit of conciliation, agreed to receive and consider, by means of Commissioners, whatever might be proposed on behalf the United States, with a view to bring the controversy to a speedy and final termination; with the express reservation, however, that the doings of such commissioners should, in no respect, be obligatory on the State, until ratified and confirmed by the Legislature itself.

The result of the acts of the Legislature and of the doings of the Commissioners appointed by its authority, is the enclosed provisional agreement already mentioned, and to which we beg leave to refer. It will be perceived by that agreement, that the President of the United States proposes to "open new negotiations with Great Britain, for the purpose of having the line, designated by the Treaty of 1783, run and marked according to that Treaty;" and if that should be found impracticable, "for the establishment of such a new boundary between the dominions of the United States and Great Britain, as should be mutually convenient," and also "for making arrangements relative to the navigation of the river St. John and the adjustment of other points, that may be necessary for the convenience of the parties interested;" and, that he deems "a cession from the State of Maine of all her jurisdiction and right of soil over the territory" claimed by her, lying north and east of the rivers St. John and St. Francis, "as indispensable to the success of such negociation." However direct the interest of the State in the question at issue on the one hand, as a foreign Government is urging its pretensions on the other, the Government of the United States is the only constitutional and competent agent to take charge of the controversy. Still the power of that Government over the subject is not unlimited.

The State has its constitutional rights which she may invoke, and which must be respected. If, then, in the progress of the contemplated negotiation, it should be found, that what is demanded as her right by Maine, is now utterly unattainable; and if the State, insisting upon its extreme right, denies to the United States all power under any circumstances, to make even a beneficial compromise; it is well to enquire at this stage of the proceedings, where is the controversy and the well known state of things, and the onward course of events within the State, to lead us to? Hence, in order that the President may be enabled to open such negotiation, unembarrassed by any questions of conflicting power and jurisdiction, and with a reasonable or possible prospect of bringing the controversy to an amicable close, the proposition, "that the Legislature of Maine should provisionally surrender to the United States, all claim to jurisdiction and right of soil over the territory lying north of the River St. John and east of the River St. Francis as heretofore described," Maine in such case, and in any event to be indemnified for any portion of the territory, thus provisionally surrendered to the United States, if ultimately lost to the State, by adjoining territory to be acquired; and so far as that should prove inadequate, at the rate of one million of acres of land in Michigan for the claim to and over the whole territory surrendered—said lands, thus to be appropriated, to be sold by the United States at their expense, and the proceeds to be paid without deduction into the Treasury of the State. We deem it proper, in connection with this subject, to add, that the present minimum price of the public lands of the United States, is one dollar twenty-five cents the acre; that those situated in the territory of Michigan are rapidly coming into the market, and that the demand for them, it is understood, is steady and increasing. We also take the liberty in this place to express the opinion, that should the agreement we have entered into in behalf of the State, be ratified by the Legislature, and should the proper authorities of the United States avail themselves of its provisions, and ratify it on their part, and should the Congress of the United States by any act of legislation, diminish the value of the lands, proposed to be appropriated and pledged as an indemnity to the State, the United States would be bound in good faith to further indemnify the State for such diminution in value caused by their own acts.—It is with these general views of the subject, and in full and entire confidence in the good faith of the Government of the United States, and in the several branches of its high constituted authorities, that we have been induced, after the most mature consideration we have been able to give to the subject, to accede on our part to the provisional agreement, we now respectfully submit to the wisdom of the Legislature.

We have the honor to be, &c.

(Signed)

WM. P. RREBLE,  
REUEL WILLIAMS.  
NICHOLAS EMERY.

*His Excellency Samuel E. Smith, Governor of Maine.*

THE King of the Netherlands, mutually selected as Arbiter by the King of the United Kingdom of Great Britain and Ireland, and the President of the United States, and invited to investigate and make a decision upon the points of difference which had arisen under the Treaty of Ghent, of 1814, in ascertaining that point of the highlands lying due north from the source of the River St. Croix, designated by the Treaty of Peace of 1783 as the north west angle of Nova Scotia, and in surveying the boundary line between the dominions of the United States and Great Britain, from the source of the River St. Croix directly north to the above-mentioned north-west angle of Nova Scotia, thence along the said highlands which divide those rivers that empty themselves into the River St. Lawrence from those which fall into the Atlantic ocean, to the north-westernmost head of Connecticut River, having officially communicated his opinion that it will be suitable to adopt for boundary between the two States (*qu'il conviendra d'adopter pour limite des Etats*) a line drawn due north from the source of the river St. Croix, to the point where it intersects the middle of the thalweg of the river St. John; thence the middle of the thalweg of that river, ascending to the point where the river St. Francis empties itself into the river St. John, thence the middle of thalweg of the river St. Francis, ascending to the source of its south-westernmost branch designated on map A. by the letter X, thence a line drawn due west to the highlands, thence along the said highlands which divide those rivers that empty themselves into the river St. Lawrence from those that fall into the Atlantic ocean to the north-westernmost head of Connecticut River: And the Legislature of the State of Maine having protested and continuing to protest against the adoption by the Government of the United States of the line of boundary thus described by the King of the Netherlands, as a dismemberment of her territory, and a violation of her constitutional rights: And the President of the United States having appointed the undersigned Secretaries of the Departments of State of the Treasury, and of the Navy, to meet with such persons as might be appointed by the State of Maine, for the purpose of entering into a provisional agreement as to the quantity and selection of lands of the United States, which the State of Maine might be willing to take, and the President would be willing to recommend to Congress to give for a release on her part of all claim of jurisdiction to and of her interests in the lands lying north and east of the line so designated as a boundary by the King of the Netherlands: And the Governor of Maine, by virtue of the authority vested in him, having appointed the undersigned William Pitt Preble, Reuel Williams, and Nicholas Emery, Commissioners on the part of said State, to meet and confer with the said Secretaries of State, of the Treasury, and of the Navy, thus authorized as aforesaid, with a view to an amicable understanding and satisfactory arrangement and settlement of all disputes which had arisen, or might arise, in regard to the north eastern boundary of said State and of the United States: And several meetings and conferences having been had at Washington between the 18th day of May, and the 2d day of June, 1832; and the said Commissioners, on the part of the State of Maine, having distinctly declared, that said State did not withdraw her protest against the adoption of the line designated as a boundary by the King of the Netherlands, but would continue to protest against the same; and that it was the desire of the Legislature and Government of Maine, that new negotiations should be opened for the purpose of having the line designated by the Treaty of Peace of 1783, run and marked according to that Treaty; and if that should be found impracticable for the establishment of such a new boundary between the dominions of the United States and Great Britain, as should be mutually convenient, Maine in such case to be indemnified, so far as practicable, for jurisdiction and territory lost in consequence of any such new boundary, by jurisdictional and other rights to be acquired by the United States over adjacent territory, and transferred to said State. And for these purposes the Undersigned Commissioners were ready to enter into a provisional agreement to release to the United States the rights and claim of Maine to jurisdiction over the territory lying north and east of the line designated by the Arbiter, and her interest in the same, the said State of Maine and the State of Massachusetts being owners of the land in equal shares; suggesting at the same time the propriety of suspending the conferences until the Senate of the United States, whose advice it had become the duty of the President to take, and before whom his message for that purpose was then under consideration, should finally act in the matter, in which suggestion the Secretaries of State of the Treasury and of the Navy concurred.

And the Senate of the United States, did on the 23rd day of June, 1832, pass a resolution in the words following:

Resolved, that the Senate advise the President to open a new negotiation with his Britannic Majesty's Government, for the ascertainment of the boundary between the possessions of the United States and those of Great Britain, on the north-east frontier of the United States, according to the Treaty of Peace of 1783.

Whereupon the Secretaries of State of the Treasury, and of the Navy, did renew their communications with the Commissioners on the part of the State of Maine, and state it to be the wish and intention of the President to open a negotiation with the Government of Great Britain for the purposes mentioned by the said Commissioners, and also for making arrangements relative to the navigation of the River St. John, and the adjustment of other points that may be necessary for the convenience of the parties interested; but deeming a cession from the State of Maine, of all her jurisdiction and right of soil over the territory heretofore described, and in the manner heretofore stated as indispensable to the success of such negotiation, the Secretaries of State of the Treasury, and of the Navy,

## XII.

—  
North-eastern  
Boundary.

Arrest of E. Greely.  
Fortifications.



## XII.

North-eastern  
Boundary.

Arrest of E. Greely.  
Fortifications.

did declare and propose, that in consideration of such cession, the President will, as soon as the State of the negotiation with Great Britain may render it proper to do so, recommend to Congress to grant to the State of Maine an indemnity for the release on her part, of all right and claim to jurisdiction over, and her interest in the territory beyond the line so designated by the King of the Netherlands. The said indemnity to consist of one million acres of land to be selected by the State of Maine, and located in a square form, as near as may be out of the unappropriated lands of the United States within the territory of Michigan—the said lands to be surveyed and sold by the United States at their expense, in the same manner, and under the same regulations which apply to the public lands—and the whole proceeds, without deduction, to be paid over to the State of Maine as they shall be received. But if, in the result of any negotiation as aforesaid with Great Britain, the State of Maine shall ultimately lose less of the territory claimed by her, north and east of the Rivers St. John and St. Francis, than she would according to the line designated by the King of the Netherlands, the aforesaid indemnity shall be proportioned to the actual loss; and if any new territory contiguous to the State of Maine, not now within her limits, shall be acquired by such negotiation from Great Britain, the same shall be annexed to and be made a part of said State.—And a farther proportionate deduction shall be made from the indemnity above-mentioned. But if such attempt on the part of the President to negotiate, should wholly fail, and in that case, and not otherwise, the proper authority of the United States should, on full consideration, determine to acquiesce in the line designated by the King of the Netherlands, and to establish the same as the north east boundary of the United States, the State of Maine shall be entitled to receive the proceeds of the said million of acres, without any abatement or deduction—which offer the Undersigned Commissioners provisionally accede to, and on condition of the due performance of, all and singular, the things which by the declaration of the Secretaries of State of the Treasury, and the Navy, and by the proposal aforementioned are to be performed, or intended to be performed, they agree to recommend to the Legislature of the State of Maine, to accept said indemnity, and to release and assign to the United States, all right and claim to jurisdiction, and all her interest in the Territory north and east of the line designated by the King of the Netherlands. But it is distinctly understood, that until this agreement shall have been accepted and ratified by the Legislature of Maine, nothing herein, shall in any wise be construed, as derogating from the claims and pretensions of the said State to the whole extent of her territory as asserted by her Legislature.

Nor shall any thing herein contained, be construed so as to express or imply on the part of the President, any opinion whatever on the question of the validity of the decision of the King of the Netherlands, or of the obligation or expediency of carrying the same into effect.

(Signed)

EDW. LIVINGSTON.  
LOUIS M'LANE.  
LEVI WOODBURY.  
WM. P. PREBLE.  
REUEL WILLIAMS.  
NICHOLAS EMERY.

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*Documents published in the resolves of 1832.*

To the Senate and House of Representatives.

I HEREWITH communicate, confidentially, for the consideration of the Legislature, copies of two letters from Mr. Preble, the Agent of this State at Washington, in relation to the question respecting our north-eastern boundary, now pending before the Government of the United States. By these letters I am informed that it is expected the award and recommendation of the Arbiter will eventually be adopted by the General Government, and that it has been proposed that Maine should cede to the United States her claim to the territory which lies northward and eastward of the line recommended by the Arbiter, for an ample indemnity, in order that the General Government may be enabled to make such an arrangement with Great Britain as shall comport with the interest and the honor of the United States.

The expediency of authorizing the Agent of this State at Washington to make an arrangement with the General Government for the purposes contemplated, is now respectfully submitted to your consideration.

The decided and unanimous opinion of our Agent and the united delegation of this State in Congress cannot fail to be received with great deference, and under existing circumstances, it is believed that an arrangement of the kind proposed will not, in any respect, compromise the honor of the State, or operate injuriously to her interest. In a pecuniary point of view, she will be amply remunerated for the loss sustained, and the principle for which she has uniformly contended, that the United States have not constitutional power to alienate any portion of the territory of a State, without its consen-

will not be abandoned. The adjustment of the controversy will also relieve the United States from much embarrassment in their relations with Great Britain, and terminate those collisions with the British Authorities, which if continued would inevitably prevent the settlement of the territory and endanger the peace of the nation.

I would further suggest the necessity of acting with promptness upon this subject after it shall have received that attentive consideration to which, by its importance to the honour and interests of the State, and the welfare of the United States, it is eminently entitled.

As the Government of Massachusetts has been invited to co-operate in the measures heretofore taken by this Legislature, it may also be proper that she should be requested to unite with us in the proposed arrangement, if upon consideration its adoption should be deemed expedient.

(Signed) SAMUEL E. SMITH.

Council Chamber, Augusta, February 22, 1832.

## XII.

North-eastern  
Boundary.

Arrest of E. Greely  
Fortifications.

Sir,

Washington, February 3, 1832.

AFTER one of the most fatiguing and uncomfortable journeys I have ever made, I succeeded in arriving at this place last evening. The business of our north-eastern boundary is still before the Senate and in the hands of its Committee of Foreign Relations. I called on the President of the United States this morning, and delivered to him an authentic copy of the report and resolutions, adopted by the Legislature. They will be communicated by the President to the Senate by special message immediately. The only additional fact I deem it necessary to lay before you at this moment is, that among the papers laid before the Senate is a letter from Mr. Bankhead, the British Chargé d'Affaires, to Mr. Livingston, Secretary of State, calling, by order of his Government, on the Government of the United States, to carry into effect the opinion and advice of the Arbiter, insisting upon its being binding on the United States, and within the limits of the powers delegated to the Arbiter by the Treaty of Ghent and Convention of September 29, 1827. I will also add that I am met, as I apprehended, at the threshold, with those very difficulties which I suggested, before leaving Augusta, to yourself personally and to the members of the Legislature.

I have the honor to be, &c.

(Signed) WM. P. PREBLE.

His Excellency Samuel E. Smith, Governor of Maine.

Sir,

Washington, February 15, 1832.

I HAD a long conversation last week with Mr. Tazewell of the Senate, Chairman of their Committee of Foreign Relations. He went into a very full discussion of the subject of our boundary, not so much on the question of abstract right as on that of interest and sound policy. He endeavoured to sustain and enforce the position that Maine, in resisting the advice of the Arbiter, was jeopardizing her own interests—that by setting aside that advice, Maine would be more likely to fare worse than better—that the decision is far more favorable to her rights and pretensions than he had ever expected it would be—that if set aside, besides the irritating border difficulties, which endangered the peace of the country, the embarrassments arising out of the British possession and pretensions, with the disposition prevalent in New Brunswick, would subject Maine to constant inconvenience and vexation—if not ultimate loss. He was willing to fight if Maine said so; but it was best to pause and weigh the consequences:—and on one point he never felt clearer, viz. that on the score of policy, and with an eye to her own peace and her own best interests, Maine had better acquiesce in the award, than contend farther. Prior to this, some members of our delegation, with myself, had waited on Mr. Calhoun, and subsequently I held a conversation with Mr. Clay. These two gentlemen assume the position that the Senate has nothing to do with the subject in the shape in which it is now before them. In fact they are evidently inclined to seize, with or without just foundation, according to my views, upon mere matters of form, as a justification or excuse for declining to act all. In a word, the result of my experience so far is, that there is a general desire to get rid of the subject, and its inherent difficulties;—by right if it can be done conveniently; by wrong, if no other mode presents itself. We are not, however, without our friends; but to use once more the language of Mr. Tazewell;—notwithstanding all your delegation and you may urge in regard to the award, and, however just your views may be, “with most people that award will still go for something.” While, continued he, I agree with you in most of your abstract propositions, and in some of them probably go still farther than you do, we must look at the thing as practical men—we must consider how other nations will regards us—and we cannot get rid of the fact that the Arbiter, we agreed to, has pronounced against us. In connection with these remarks, as Mr. T. referred to our delegation, I will beg leave to say, that from all I can learn, I believe they have been faithful advocates of our rights, and are disposed to do every thing in their power to protect the interests of Maine. In regard to our Senators, as their proceedings are in secret session, I cannot have so good means of judging, and, therefore, at present neither form nor express an opinion. Our



## XII.

North-eastern  
Boundary.  
Arrest of E. Greely.  
Fortifications.

delegation meet at my rooms this evening. In the meantime I have received an invitation to call on the Secretary of State. I have been expecting it. If the object of the interview is connected with our business in any thing that is important, I shall not fail to make it known to you.

I have the honor to be, &c.

(Signed)

WM. P. PREBLE.

*His Excellency Samuel E. Smith, Governor of Maine.*

Sir,

*Washington, February 16, 1832.*

IT is now very late, or rather very early—but I cannot retire without first laying before you the results of the day and of the evening. Our delegation has been together, as suggested in my letter No. 5—and the business of our boundary generally, and of our prospects in regard to it, have been the subjects of consultation and consideration. The delegation agree in the views expressed in my letter, which I took occasion to lay before them, and all concur in the sentiment and apprehension that Maine will probably be ultimately compelled to acquiesce in the award, with a claim for indemnity. We do not despair altogether; yet such are our fears, and I deem it infidelity to the interests of the State for me to conceal them from you. I also laid before them the subjects of consideration between myself and the Secretary of State; I will proceed to lay them before you. I am justified in saying, that the delegation are nearly, if not absolutely, unanimous in commending the propositions to the favourable consideration of the Legislature. The Government of the United States feel themselves embarrassed by the posture of affairs, in relation to the north-eastern boundary. They are anxious to save the rights of Maine, and preserve what is thought to be the honor of the country, and to prevent its peace being put in jeopardy. Without therefore undertaking to say whether Maine is right or is wrong in her doctrines, but believing that she is greatly injured as a matter of fact, it is proposed that Maine should cede to the United States her claim and jurisdiction over that portion of territory which lies northerly and easterly of the line, recommended by the Arbiter, for an indemnity, in order that the United States may be enabled to make such an arrangement with Great Britain, as may best comport with the interests and honor of the United States. And for this purpose it is proposed, that the Agent of Maine should be authorized to enter into a negotiation with such person or persons, as may be designated by the President for the cession of jurisdiction on the one part, and the settlement of the indemnity on the other, the agreement that may be thus entered into, to be subject to ratification, &c. It is proposed that the indemnity should be in land. On this proposition, after the most mature consideration, we agree, that it saves the honor of the State; that it relieves the United States, and that so far as pecuniary interests are concerned, it will be immensely advantageous to Maine. Also, if Maine is disposed to make a bargain, we all agree this is the favorable moment. Suffer it to pass unimproved and it is gone forever. I have stated the proposition just as made. Doubtless the Government of the United States would negotiate as readily with any other person as with the person who at this moment holds the place of Maine's Agent. If he should be authorized, he ought of course to consult with our delegation. These propositions are made confidentially, and to be laid before the Legislature of Maine confidentially, and their action thereon, and whatever relates to the subject, must be regarded as confidential. Let this business, I pray, be acted upon as speedily as possible, and the results be communicated without unnecessary delay. I repeat, in our deliberations there was but one opinion among our delegation on this subject.

I have the honor to be, &c.

(Signed)

WM. P. PREBLE.

*His Excellency Samuel E. Smith, Governor of Maine,*

P. S.—A more ample indemnity could be obtained in land than in money.

W. P. P.

To the Speaker of the House of Representatives.

AGREEABLY to the request of the House of Representatives, I herewith communicate, confidentially, for their consideration, copies of all the official letters of William P. Preble, the Agent of this State at Washington, in relation to the subject of the north-eastern boundary, together with the documents accompanying the same, which were received before my last confidential communication, or have been received since, with the exception of those before communicated; and a letter dated February 20th, number 2, and marked "private and confidential," communicating certain documents now before the General Government, which cannot, consistently with my public duty, and without a violation of confidence, be formally laid before the Legislature. But I have placed these papers in the hands of the Chairman of the Committee on this subject on the part of the House of Representatives, to be used as in his discretion shall appear proper and consistent with the public interest and the honor of the Government.

I also communicate a copy of a letter directed to Mr. Preble from John Anderson, Rufus McIntire, Leonard Jarvis, Cornelius Holland, James Bates and Edward Kavanagh, and a copy of a letter from George Evans, Representatives in Congress from this State in relation to this subject.

(Signed)

SAMUEL E. SMITH.

Council Chamber, February 29, 1832.

XII.

North-eastern  
Boundary.

Arrest of E. Greely.  
Fortifications.

Sir,

Washington, February 17, 1832.

I DID myself the honour, in my letter No. 6, to lay before you the result of a confidential consultation among the members of our delegation—also certain propositions, which had been made, confidentially, with a view of being communicated to you, in order that they may be laid confidentially before the Legislature of Maine. These propositions, it is true, are, as is usual, in the first instance, made informally, in order to see whether they would be met in a spirit of reciprocity and accommodation, and were carried so far as to suggest the name of an individual to act on the part of the United States, \* \* \* \* an individual whom I know to be personally well disposed. I am, therefore, a little surprised at the objection suggested in the letter of Mr. Evans in regard to form; and, as to the mode of conducting the business, if the Legislature should think favorably of entertaining the propositions at all, that suggested by Mr. Evans is only calculated to embarrass and not to bring matters to an amicable termination. If the Legislature reserve to itself, as proposed, the right of ratification, it reserves all that any Government ever reserves. In regard to Massachusetts, her interests must be respected of course. No one could desire to have it otherwise. She could be indemnified by other lands in Maine, or in such form as Maine and herself may agree, but surely she cannot expect to be consulted on the question, whether Maine will enter upon a negotiation to cede her own jurisdiction to the United States. Referring you, however, to the letter of Mr. Evans, a copy of which is inclosed, I take the liberty to lay before you some of the views and modes of thinking which seem to be regarded here as deserving consideration.

The prevailing opinion of nearly our whole delegation from the State has been, as I learn, that from the all-absorbing nature of the subjects of discussion and contest, which at this time agitate Congress—from a desire on the part of gentlemen generally to get rid of present and avoid future difficulties—from a mistaken view of what is required by national honor—from considerations such as those suggested by Mr. Tazewell, adverted to in my letter No. 5—from a prevalent belief that the subject matter of the controversy is not worth the hazard of disturbing the peace of the country and jeopardizing its national and commercial interests; and I will add, on my own responsibility, from the extreme remoteness of our situation—our infancy as a State, and the consequent very limited influence and consideration Maine enjoys, notwithstanding the acknowledged personal respectability and merit of our present delegation, Maine would probably, ultimately, be obliged to submit, however she may resist the idea, to a modification of her boundary line, and that afterwards her only practicable remedy would be an application or petition to Congress for indemnity. But to have our territory wrested from us would be too humiliating; and after having been compelled to submit to the violation of our State rights, to prefer a petition for indemnity would, in my apprehension, be at least a mortifying state of things. Besides, it is certain there are members of Congress even now, who say they would not allow to Maine one single cent. This covering, such as it is, for our wounded State pride and violated State rights, in the form of an indemnity, therefore might be withheld, or if any thing were offered it might be some miserable bagatelle in amount, more offensive than a total refusal. In a word, the injury being consummated upon us, I could not but consider, whatever may be urged to the contrary by Mr. Evans, that we should be wholly at the mercy of Congress, with nothing left us but a sense of our injury and the right of complaining. These views are not very flattering to our State pride, but let us not suffer our honorable feelings to mislead our judgment, or prevent us from seeing things as they exist. It is not a matter of private interest, in which we may indulge our personal feelings without being responsible to any one. It is the interests of the State which are committed to its functionaries. In the course suggested by the propositions communicated to you, it appears to me Maine is treated with courtesy and respect. She does not make the proposition—she is invited to negotiate. Her wrongs are in effect admitted—her nationality is appealed to. She is not asked to yield to foreign encroachment or usurpation. She is requested to consent, in consideration of existing embarrassments and difficulties, which have arisen out of unforeseen causes and providential events, to cede to the United States for a full equivalent and indemnity, to be mutually agreed upon, her claim and jurisdiction to that portion of her territory lying northerly and easterly of the line recommended as a boundary by the Arbiter; and she is requested to do this, in order that the Government of the United States may then proceed to make such a definite arrangement, as shall relieve Maine herself from all farther annoyance and trouble, and promote the interests and consolidate the peace of the union, of which Maine is a member. It is with a view to all these considerations, as I understand, enforced upon their minds by all the means of judging their position affords, that our delegation have united, with the exception of Mr. Evans, in recommending to the favorable attention of



## XII.

North-eastern  
Boundary.

Arrest of E. Greely.  
Fortifications.

yourself and of the Legislature of Maine, the propositions I had the honor to lay before you. At the same time it is understood, all will unite, until otherwise instructed, in maintaining the rights of the State and enforcing the views expressed by the Legislature in their resolutions of the 19th of January last. In one sentiment I believe we all, Senators, delegation and myself, concur. It is, that though we all have our fears, we do not, any of us, wholly despair of the republic. Discussion and time are favorable to a just perception of our rights. The resolves introduced into the Senate of Massachusetts come to our aid; but there are too many who perceive what are our rights; yet from motives of what they perhaps call national policy, are determined to do us wrong.

In laying this subject and these considerations before you, I feel called upon to submit one remark in regard to myself. If, after due deliberation, the Legislature of Maine should deem it for the interest of the State to enter into negotiation, I am not anxious that it should be committed to me. It is from no personal views that I resist the notions of Mr. Evans. What nation or State ever negotiated by the immediate action of its Legislature?

I have the honor to be, &c.,

(Signed) WILLIAM P. PREBLE.

*His Excellency Samuel E. Smith, Governor of Maine.*

*House of Representatives, February 16, 1832.*

Dear Sir

THE communication which you made to us last evening, of the informal proposition of the Executive of the United States, the object of which is to procure, by negotiation, from Maine, a cession to the United States of the territory belonging to the State north and east of the Rivers St. John and St. Francis, for an adequate compensation, has received from us the most careful consideration.

It is not necessary for us to enlarge upon topics upon which all parties in Maine are agreed. The resolutions adopted by both branches of the Legislature of the State, and approved by the Governor on the 19th day of January last, are entitled to and have received our most respectful attention, and we concur fully in all the opinions and sentiments they express. It is our settled conviction that Maine ought not to consent to any dismemberment of her territory, to be made merely by force of the late pretended award of the King of the Netherlands, and we do not believe that she will ever acquiesce in any violation of her constitutional rights as a Sovereign State, or as a member of this confederacy; and if, in the proposal now submitted to us, there were the possibility of a construction, which would yield even the smallest particle of those rights, we would at once and without hesitation repel the offer, however advantageous to her in a pecuniary view, and however desirable its acceptance might be to the General Government. But, considering as we do that the very proposition puts us upon high ground, that it may be considered as yielding the pretensions heretofore advanced that Maine could have no voice in the disposal of her territory; that it tacitly recognizes the rights of our State, and by implication acknowledges the justness of the view, which its constituted authorities have constantly taken, we are at liberty to turn our attention to its political bearing upon Maine and upon the relations of the United States with foreign countries.

From information we have gathered of the present situation of the correspondence between the Government of the United States and that of Great Britain, in relation to the doings of the late Arbitrator, the conviction is forced upon us that the rejection of his pretended award will involve our country in difficulties which may lead to an interruption of that friendly intercourse which now subsists between the United States and Great Britain; a result which we presume no man in the Union can desire, and which every good citizen would deplore. If such a crisis were inevitable, it would be met with fortitude, but certainly it ought to be avoided if to be done with honor. It cannot at present answer any useful purpose to review the past history of a question which now presents itself for final action amidst so many embarrassments. If, therefore, the United States can, without infringing on the constitutional rights and prerogatives of Maine, continue to maintain with all foreign nations that friendly intercourse which is dictated both by duty and good policy, we believe that our fellow citizens will feel satisfied with the result.

We are well convinced that few eras have existed since the establishment of our Government so inauspicious as the present to an unbiassed action of the federal authorities on the question now pending in behalf of our State. We know that it has been referred by the Executive to the Senate as a co-ordinate branch of the treaty-making power for their advice, and that it is yet pending before that body; but we cannot venture to predict the result of their deliberations thereon. In common with yourself we have what we believe to be well grounded fears that a decision may be made adverse to the rights and interests of Maine and productive of consequences which may for years place her, in relation to her sister States, in a position which may detract from that harmony which our purest patriots have ever sought to maintain between all the members of this confederacy. In such a result will Maine resist, or will she seek indemnity? Should she decline the first alternative, will she in the second place, invested as she is with the character and attributes of so-

verignty, choose to appear at the bar of the Union in the attitude of a petitioner? We believe not, so long as any other mode offers itself to secure perfect indemnity.

We have enumerated some of the reasons which have influenced us in forming an opinion on the question which you have submitted. There are many others which either necessarily result from the general ones stated above, or will readily suggest themselves to all who, with a knowledge of the facts and circumstances disclosed, will give their attention to the subject.

We are therefore of opinion that the proposition of the Executive of the United States ought to be met by the State of Maine in the same friendly and conciliatory spirit in which it has been made, and we are satisfied that in so doing all the interests of Maine will be materially promoted.

(Signed)

JOHN ANDERSON,  
RUFUS McINTIRE,  
LEO. JARVIS,  
CORNELIUS HOLLAND,  
JAMES BATES,  
EDWARD KAVANAGH.

XII.

North-eastern  
Boundary.

Arrest of E. Greely  
Fortifications.

*House of Representatives, February 16, 1832.*

Sir,

UNDERSTANDING from yourself, that an informal proposition has been made to you by the General Government, through its proper officers, the object of which is to procure from the State of Maine, its assent to the adoption of the line of boundary recommended by the King of Holland, upon full indemnity to be made by the United States to the State of Maine, or for a cession of the territory north and east of the St. John's River to the United States for ample consideration to be made, and my opinion having been requested as to the course proper to be pursued in the present juncture, I beg leave to submit it in writing.

The State of Maine has protested earnestly against the adoption of the line recommended by the Umpire, and has requested the exertions of its Representatives to prevent any transfer of the territory in question. As to the question of right, I trust there can be no diversity of opinion, certainly none in our State: nor as it seems to me, can there be any doubt that the opinion of the Umpire is by no means whatever obligatory upon this Government. I concur in the resolutions adopted by the Legislature of Maine upon these topics. Maine has therefore nothing more to do, than to insist, as it has insisted, upon its rights; and to protest earnestly and constantly, against any infringement upon them. Her course is plain, and I trust all the Representatives from that State are prepared to vindicate her rights. If the General Government finds itself embarrassed in its proceedings upon this subject, and desires the assent of Maine to enable it to act freely, its course is also plain—and it seems to me, the proper step to be taken is, that the General Government should signify formally and officially to the Government of Maine its wishes, accompanied perhaps by propositions on its part which the Legislature of that State may deliberate upon, for the accommodation of this embarrassing question. The decided measures which Maine has already adopted, seem to me to preclude any advances or propositions coming from that quarter. She stands upon her rights, and has no concessions to make. They who wish them should take the first steps to procure them.

As the subject is now before the Senate in executive session, we, of course, are wholly ignorant of its present posture, and have scarcely any means of forming an opinion as to the final disposition of the subject. I cannot, however, for a single moment entertain the opinion, that the recommendation of the Umpire will be adopted as a decision, without full indemnity being made to Maine, and I have reason to believe, that the administration of the General Government have been entirely willing to do this. It is quite clear to me, therefore, that we hazard nothing, so far as indemnity to us is concerned, by omitting to make advances for a compromise with the General Government. I can have not the remotest objection to any negotiation between the Legislature of Maine and the General Government, which the parties may choose to institute—but upon a consideration of the whole subject, I cannot recommend that the State of Maine propose to the General Government a cession of territory, or assent to the line, for an indemnity to be received, until the Government of the United States have recognized the rights of Maine, and requested that assent as the basis of its action. When that is done, the Legislature of Maine is abundantly competent to decide whether it will yield its assent, and upon what terms and conditions. While therefore I agree that Maine should be always ready to receive propositions upon this subject, I cannot advise that she should volunteer terms of compromise, more especially, until her rights are admitted. If it may be considered a favorable time to push a good bargain in a pecuniary point of view, and should therefore be embraced, I can only say, that in the worst possible result, I have no fear that full indemnity will be refused us; and, indeed, if the line be adopted against our protestations, the claim for compensation will be stronger, than if adopted by our consent. It seems to me, that as a member of the House, I have nothing more to do in discharging my duties to Maine, than



## XII.

North-eastern  
Boundary.

Arrest of E. Greely.

Fortifications.

to maintain the principles contained in the resolutions of the Legislature until a different course is prescribed by themselves, or a change of circumstances requires a different course of action.

The preceding has been written in much haste, and amid the noise of business in the House; and may be imperfectly expressed—I hope however it is intelligible.

I have the honor to be, &c.

*Hon. William P. Preble.*

(Signed)

GEO. EVANS.

P. S. Since writing the preceding letter, I have seen the proceedings of the Legislature of Massachusetts upon the subject of the boundary, adopted in pursuance of the request of Maine; and fully sustaining all the claims, rights and principles of Maine. As we have invited the co-operation of that State, which has been yielded in pursuance of our request, I think it will well admit of a serious doubt whether we ought to take any step without her concurrence, or at least without advising her of our intended proceedings.

(Signed)

G. E.

Sir,

*Washington, February 20, 1832.*

ON the suggestion of our Senators, the Committee of foreign relations will, it is said, postpone their report for a short time, the object being, it is presumed, to afford time to hear from you. I beg leave, therefore, to press upon your consideration, the desirableness of an early answer in relation to the propositions which have been made to you.

In listening to the various suggestions which have been made and continue to be so, the following views, thrown out in casual conversation, have arrested my attention.

1. That a great portion of the territory of Maine, claimed by the British Government, northerly and easterly of the St. John and St. Francis, is a barren, mountainous region, wholly unfit for settlement and cultivation, particularly the region northerly and easterly of the St. John and Madawaska, and consequently never will sustain a population sufficient to add much to our relative weight and influence in the Union.

2. That if the British Government were to make a military road by the River St. John through the territory; on account of the highlands and mountainous region between the waters of the St. John and Restigouche on the one hand, and between the St. John and St. Lawrence on the other, it could only be sustained in time of war at an enormous expense, provided the United States should lay a road cutting it in a proper manner, as it is supposed they would do; and that in time of peace such a road would be useful to Maine rather than injurious, especially on the hypothesis that the United States laid out and made their road.

In regard to these two propositions, I think I understand their intended bearing. Of course we repel every suggestion that goes to undervalue our territory; and in our turn maintain, that these highlands and inhospitable regions are our natural barrier, which Maine prefers to any other.

And now, Sir, I will take occasion to say to you, that I regard the tour of duty, prescribed by the resolves of the Legislature of Maine, as nearly completed. I might perhaps be of some service, if I were to remain until the business of the award was disposed of by the Senate and by the House also, if it should be laid before that body. But the subject may hang along yet for weeks; and the care of the interests of the State before Congress, may be safely left where our Constitution and laws have placed it. The propositions I have had the honor to lay before you, I regard as too interesting to the State to be lightly rejected, believing as I do, that as faithful servants of Maine and good citizens of the United States, we are bound to look at the risks to be run as well as the advantages to be gained; and the certainty, *to my mind the moral certainty*, that Maine never will hereafter be able to negotiate under circumstances so favorable to her as the present. In laying these propositions before you and the state of things as we apprehended it to exist here, I have done my duty to the Legislature. It is now for the Legislature to take the subject into consideration and dispose of it as in their wisdom the best interests of the State and of the United States seem to require.

I have the honor to be, &c.

(Signed)

WM. P. PREBLE.

*His Excellency Samuel E. Smith, Governor of Maine.*

Sir,

*Washington, February 23, 1832.*

I AM now well satisfied that the Senate, as a branch of the Treaty making power, will not give their advice and consent to the ratifications of the *quasi* award of the Arbiter; but the subject is before them, and what will they do with it? I think they will avoid the question by throwing the whole subject back upon the President. What course will the President then adopt? That, I think, is not yet finally settled. One course suggested

is, to lay the award before Congress in such a manner, as to lead to a discussion in regard to an appropriation to carry it, the award, into effect. At all events, back before Congress it will come in some form or other. If then we assume the hypothesis that, as many believe, Maine will be ultimately driven to ask for a redress of her wrongs under the form of an indemnity, what course best comports with her honor and her interests? Is it best for Maine to comply with the request, and accept the invitation to negotiate in the present stage of the business; or to wait the movement and decision of the Senate? If we postpone negotiating until after the Senate shall have acted, is it best then to enter upon a negotiation, or to wait the final decision of Congress? In a word, is it best for Maine to negotiate at all, or while she stands insisting on her rights, to wait the issue of events? These are grave questions, and Maine cannot avoid answering them. If she declines to answer, that fact of itself is an answer. It declares her intention to be, to wait the issue of events. Our cause is gaining strength, that is certain; but it must gain a good deal yet, to insure our success. Grant us all the success we can ask, and there still remains an uncertain state of things before us. Were it not for this last consideration, success would, I think, be certain.

I transmitted to you, accompanying my letter No. 7, a copy of a letter addressed to me by Mr. Evans. I now enclose a letter from the rest of our delegation, to which I beg leave to refer you; and at the same time I take occasion to say, this is probably the last communication I shall address to you, until I hear from you.

I have the honor to be, &c.

(Signed)

WM. P. PREBLE.

*His Excellency Samuel E. Smith, Governor of Maine.*

XII.

North-eastern  
Boundary.

Arrest of E. Greely.  
Fortifications.

Sir,

*Washington, March 10, 1832.*

I DEEM it proper to communicate to you the enclosed copy of the minutes of a conference between the Secretary of State and myself, and at the same time to take occasion to say to you that I read to Mr. Livingston that passage of my letter in which I communicated to you his proposition, and he expressed himself as fully satisfied with it. And in connection with this subject, I will also add, that in all my conferences with the Secretary of State, the other members of the Cabinet and the President, I have insisted that Maine's sole wish and desire was to abide by her ancient boundaries; that if, under the present circumstances, or any which might arise, it should be necessary, in order to preserve the peace of the country, for the Government of the United States to consent to modify the line of 1783, such modification ought to be one which would accommodate the people of our State in that quarter, and the State itself, as well as Great Britain and her subjects—a modification which would partially indemnify Maine for the position and territory lost;—and, further, that in my opinion, Great Britain, in a case in which she must know that she is in the wrong, would be glad to get rid of the subject by such a modification.

Accept assurances, &c.

(Signed)

WM. P. PREBLE.

*His Excellency Samuel E. Smith, Governor of Maine.*

Sir,

*Washington, March 13, 1832.*

A MEMBER of the Committee of Foreign Relations in the Senate had intimated, that the Committee were ready to report, and postponed doing so only at the request of our Senators. Having also heard intimations of what that report was probably to be, I expressed to our Senators the opinion that, under these circumstances, it was desirable the Committee should report without further delay. To this both assented, and a suggestion to that effect, was as I understood, made to the Chairman. No report, however, has yet been made. I regret this the more, as I wish to see it before I leave, or at least know its precise contents, so that I may give what aid I can preparatory to meeting its positions, so far as they may be adverse to the rights of Maine. I could wish also to hear from you before I leave; but I have long been impatient to return home. Already I have been absent nearly six weeks, and I hope I shall not be thought unreasonable, when I add, that I could not consent to remain but a few days longer.

I have the honor to be, &c.

(Signed)

WM. P. PREBLE.

*His Excellency Samuel E. Smith, Governor of Maine.*



*To the Senate and House of Representatives.**Council Chamber, March 9, 1832.*

XII.

North-eastern  
Boundary.Arrest of E. Greely.  
Fortifications.

THE order of the two branches of the Legislature authorizing the Governor, with advice of Council, to remove the injunction of secrecy, when in their opinion it may be done in safety to the interest of the State, has been under the consideration of this department, and for the reasons stated in the report of the Council herewith communicated, and in pursuance of said order, I hereby, with the advice of Council, remove the injunction of secrecy on the proceedings of the Legislature, from and after this day.

(Signed) SAMUEL E. SMITH.

## STATE OF MAINE.

*Resolve respecting the territory lying north and east of the Rivers St. John and St. Francis.**Approved, March 3, 1832.*

WHEREAS information has been communicated by the Agent of this State at Washington, that it is proposed that Maine should cede to the United States her claim and jurisdiction over that portion of territory which lies northerly and easterly of the line recommended by the Arbiter, for an ample indemnity, in order that the United States may be enabled to make such an arrangement with Great Britain as may best comport with the interests and honor of the United States:

And whereas the Government of Maine has repeatedly declared, and now declares, that the right of soil and jurisdiction in said territory, according to the provisions of the Treaty of 1783, is in the State of Maine, as a sovereign and independent State, and has denied, and continues to deny, the right of the General Government to cede the same to any foreign power without the consent of Maine; and has communicated resolutions to that effect to the General Government, and has claimed of that Government the protection guaranteed to every State by the constitution of the United States:

And whereas the Legislature of Maine is disposed to regard the proposition aforesaid as emanating from a disposition on the part of the General Government, to promote the interests, and to preserve the peace of the nation, without violating the rights of Maine, or disregarding the obligation resting upon the whole Union to protect each State in the full enjoyment of all its territory and right of jurisdiction, and willing to meet the proposition in a like spirit in which it is believed to have been made:

*Therefore Resolved*, That upon the appointment by the President of the United States, of a person or persons to enter into negotiation with this State for the relinquishment, by this State to the United States, of her claim to said territory and for the cession of the jurisdiction thereof, on the one part; and for an ample indemnity therefore, on the other part; and notice thereof being communicated to the Governor, the Governor, with advice of Council be, and he is hereby, authorized and requested to appoint three Commissioners on the part and in behalf of this State, to treat with such person or persons, so appointed by the President, on the subjects aforesaid; and any agreement or Treaty to be made in pursuance of this resolve, is to be submitted to the Legislature of Maine for approval or rejection; and until such agreement or Treaty be so submitted to, and approved by the Legislature of Maine, nothing herein contained shall be construed, in any way, as implying the assent of this State to the line of boundary recommended by the Arbiter, or to the right of the General Government to adopt or sanction that line instead of the line described in the Treaty of 1783.

*Resolved*, that the Governor be requested forthwith to communicate the foregoing preamble and resolution, confidentially, to the Agent of this State at Washington, and also to the Executive of the Commonwealth of Massachusetts, to afford to that Commonwealth the opportunity of adopting such measures as she may consider expedient in relation to her interest in said territory.

## Inclosure No. 2 in No. 3.

*Message of the Governor on the North American Boundary.**To the Senate and House of Representatives.*

I herewith communicate for your consideration, a communication addressed to me by the Secretary of State of the United States, with the correspondence therein referred to, in reference to the North Eastern Boundary. This communication is made by request of the President of the United States, and in compliance with his suggestion, I ask your careful and deliberate attention to the facts and propositions therein contained. The duty devolving on me would perhaps be performed by the simple communication of these documents, without any remarks or comments of my own. But this subject, always interesting to Maine, has become more so by this direct application on the part of the President of the United States for the expression of the wishes and the will of this State in reference to the adjustment of this long pending question, and feeling a deep interest, personally and officially, in every thing that relates to it, and anxious mainly, that the rights of Maine should not be jeopardized or impaired, I feel it to be a duty which I owe to the people, who have assigned me my part of responsibility, to speak my honest opinions and views plainly and unreservedly upon the grave matters now submitted to you. I ask for my views no other weight or influence than such as their intrinsic value may entitle them, and I desire only to be regarded as connected with you, in guarding with watchful care the great interests entrusted to us, and doing my duty in this important crisis according to my best judgment. If my views are erroneous, or if I am in your opinion unnecessarily strict or severe in my judgment of intentions, or too limited in my suggestions of policy, I trust to you to correct or overrule me—I assume no right to dictate or control your actions.

In the communication from Mr. Forsyth, in connection with a very lucid and interesting history of the negotiations between the two governments, we are informed, that the discussions between the Federal Government and that of Great Britain have arrived at a stage, in which the President thinks it due to the State of Maine and necessary to the intelligent action of the General Government, to take the sense of this State in regard to the expediency of opening a direct negotiation for the establishment of a *conventional line*; and if Maine should deem an attempt to adjust the matter in controversy in that form, advisable, then to ask the assent of Maine to the same.

The grave and important question therefore presented for your consideration as you will more fully perceive by the document referred to, is whether you will clothe the Executive of the United States with the unlimited power of fixing a new and conventional line, in lieu of the treaty boundary.

It is certainly gratifying to perceive that the right of Maine to be heard and consulted before the treaty line is abandoned, is fully recognized by the General Government, and I have no doubt the Legislature of Maine will approach the consideration of the proposition in the same spirit it is offered, and with an anxious desire to terminate this long pending and embarrassing question; if it can be done without too great a sacrifice of honour and right. Although the documents are somewhat voluminous, the proposition is single and simple in its character and easily understood.

I have given to the subject all the reflection and examination I have been able to bestow, since the reception of the documents, and with a most anxious desire to acquiesce in any feasible scheme of adjustment, or any reasonable proposition for a settlement, I feel constrained to say that I can see little to hope, and much to fear from the proposed departure from the treaty line.

I think that the most cursory examination of the correspondence and movements on the part of Great Britain, must satisfy any one, that the leading objects which her diplomatists have had in view since the result of the arbitration, has been to destroy, or lay aside the treaty line—to lead us away from the clear, unambiguous, definite terms of that treaty—and involve us in interminable discussions, propositions and replies in relation to conventional lines, no one of which would be acceptable unless it gave to them a large part of our territory.

We find that in May 1833, very soon after the President in pursuance of the advice of the Senate had opened a new negotiation to ascertain the line *according to the Treaty of 1783*—to which treaty line, the negotiation of course was confined, the British Minister suggested, “That this perplexed and hitherto interminable question could only be set at rest by an abandonment of the *defective* description of boundary contained in the Treaty, and by the two Governments mutually agreeing upon a *conventional* line more convenient to both parties.”

The same intention is apparent in the refusal to acquiesce in the proposition to refer the settlement of the treaty line to a commission, to be constituted of an equal number chosen by each party, with an umpire to be designated by a friendly power from the most skilful men in Europe; or secondly, that the commission should be entirely composed of such scientific men in Europe, to be selected by some friendly power, to be attended in the survey and view of the country by agents appointed by the parties.

It was in answer to this proposition, that the suggestion of the impracticability of the treaty line was made, and the intention became apparent to lead us away from that inconvenient obstacle to their wishes and plans—the treaty language. The proposition was so equitable and fair—so just to all parties, and so full of promise of adjustment upon proceedings satisfactory to us, that it could not be peremptorily rejected.

But although it was entertained, the answer to it clogged the proposition with so

## XII.

North-eastern  
Boundary.

Arrest of E. Greely.  
Fortifications.



XII.

North-eastern  
Boundary.  
Arrest of E. Greely.  
Fortifications.

many conditions, and so limited the powers of the commissioners, and required the concession on our part of the all important fact that the St. Johns and Restigooch are not Atlantic rivers—that the original plan was at once deprived of all vitality or power or use, and in fact the reference would have been merely an agreement to abide by the decision, provided both parties should be satisfied and assent to it.

It is certainly somewhat remarkable that if the assumed fact is true, viz. that the treaty line can not be laid down or fixed according to the Treaty, that so much unwillingness should be exhibited to have an attempt made to ascertain it,—or if Great Britain is so strongly convinced of the justice and strength of her argument and claim, that she should be so reluctant to refer the whole question to disinterested and scientific Europeans.

There is an apparent, and I doubt not, a real anxiety to avoid discussion or examination *based upon the Treaty*, and I fear that if we once abandon that line in search of a conventional one, we shall never be able to bring them back again to consider the present line, or to recognise the Treaty as of any binding efficacy. I fear too that the only question in negotiations for a conventional line, will be, how large a portion of our territory we must yield up. The suggestions made by our Government to take the River St. Johns from its mouth to its source, as the boundary, was rejected, with a simple expression of wonder that it should have been made; and our Government is told explicitly that “His Majesty’s Government can not consent to embarrass the negotiation respecting the boundary by mixing up with it a discussion regarding the *navigation* of the St. John, as an integral part of the question.”

The intimation seems plain, that no negotiation for an exchange of territory or privileges will be entered into, but the single point will be, how shall the disputed territory be divided between the parties. I fear that if we abandon the treaty language, so clear and so decided in our favor, and so much at variance with their claim, we shall leave a certainty for an uncertainty, and throw doubt, confusion and embarrassment over our claim and our course of action, and yield to Great Britain the great obstacle we now present to her grasping spirit—the solemn Treaty of ’83.

And what security have we that any line can be fixed upon which shall be permanent, or what certainty is there that the new line may not be declared to be “impracticable,” whenever it may come in contact with any of the plans or wishes of Great Britain? It would certainly be difficult to present a stronger and clearer case than we now do, and if diplomacy and skill can manufacture doubts and embarrassments in the discussion of the question, as now presented, we may well despair of ever fixing a certain and unalterable line of boundary. If I am accused of injustice or severity in these remarks, I would point in justification to the remarkable progress of the doubts and assertions in relation to the treaty line of boundary. When the question as to which river was the true St. Croix of the Treaty (which was the only question *then* in dispute) was before the Commissioners under the Treaty of 1794, the British Agent founds his principal argument for the westernmost river, upon the ground, that a line due north from the source of that river would only include a part of one of the rivers (the St. Johns) which have their mouth within New Brunswick. He says, “The most accustomed and convenient rule in cases of this kind, is, to leave to each power respectively the sources of those rivers that empty themselves, or whose mouths are within its territory upon the sea coasts, if it can be done consistently with, or in conformity with the intent of the Treaty. A line due north from the source of the western or main branch of the Schoudiac or St. Croix, will fully secure this effect to the United States in every instance, and also to Great Britain in all instances except in that of the river St. John, wherein it becomes *impossible* by reason that the sources of this river are to the westward, not only of the western boundary line of Nova Scotia, but of the sources of the Penobscot and even of the Kennebec, so that this north line *must of necessity cross the St. John*, but it will cross it in a part of it almost at the foot of the highlands and where it ceases to be navigable. But if a north line is traced from the source of the Cheputnatecook, it will not only cross the river St. John, within about fifty miles from Frederickton, the metropolis of New Brunswick, but will cut off the sources of the rivers which fall into the Bay of Chaleurs, if not of many others, probably of the Meramichi, among them which fall into the Gulf of St. Lawrence, and thereby be productive of inconvenient consequences to the two powers, if not of contention, between them, instead of “terminating their differences in such a manner, as may be best calculated to produce mutual satisfaction and good understanding, which is one of the principal and avowed objects of the Treaty.”—At this time then, there was no doubt that the line running due north to the highlands of the Treaty must cross the St. John’s River, and if the starting point was carried east, it is admitted that such line would cut off the Restigooch, which is nearly as far north as our claim. And certainly the line was to run equally far north, whether the starting point was east or west—unless the highlands inclined to the south. And yet we are now required as a preliminary to admit that the St. John and Restigooch are not Atlantic rivers, within the meaning of the Treaty.

In 1814, when the negotiations which resulted in the Treaty of Ghent, were in progress, no pretence was made that our line did not extend beyond the St. John’s and according to our present views.

Great Britain then by her negotiators expressly stated that she “desires the *revision* of the frontier between her North American dominions and those of the United States, not with any view to an acquisition of territory, as such, but for the purpose of securing her possessions, and preventing future disputes, and such a VARIATION of the line of

frontier as may secure a direct communication between Quebec and Halifax." And when our negotiators peremptorily refused to agree to any *cession* of territory, the answer was that they "were not prepared to anticipate the objections contained in the note of the American Plenipotentiaries, that they were instructed to treat for the revision of their boundary lines, with the statement which they have subsequently made, that they had no authority to *cede* any part, however insignificant, of the territories of the United States, although the proposal left it open for them to demand an *equivalent* for such cession in territory or otherwise." And yet now that territory, which they then offered to pay us for, is claimed as clearly their own, and that line which then was admitted and recognized as including the territory as claimed by us, is now declared to be impracticable and must be abandoned, and a more convenient one sought for and established.

I feel most sensibly, that this question now presented is one of very grave importance, and that the action now to be had by the Legislature of Maine, may and probably will have a very material influence upon the relations between this Government and Great Britain.

The painful conviction is forced upon me, that Great Britain is determined to hold this territory that she now claims, deeming it highly important as securing a connection between her provinces in time of war and peace, and I reiterate the assertion heretofore made, that "we have little to hope from the forbearance or action of the British Government." Their aim is apparent to expunge the treaty-provision, and to hold on with an unyielding grasp to their modern claim, and to reject all propositions having the treaty line for their basis. I can not but regard it as unfortunate, that our General Government, although it has recognized our right to be consulted before any conventional line should be adopted, has in a degree, at least, given countenance to the propriety and expediency of departing from the treaty line. "In a note from the Department of State, dated 28th April, 1835, Sir Charles R. Vaughan was assured that his prompt suggestion, as His Britannic Majesty's Minister, that a negotiation should be opened for the establishment of a conventional boundary between the two countries, was duly appreciated by the President, who, had he possessed like powers with His Majesty's Government over the subject, would have met the suggestion in a favorable spirit." Such a suggestion, it seems to me, although dictated doubtless by a sincere desire to end the controversy, was well calculated to lead our opponents as a matter of policy on their part, to clog the previous proposition with insuperable difficulties, and to encourage them to persevere in their attempt to obliterate the treaty language. I think the same effect must have resulted from the singular annunciation to the British Government by the late President of the United States in 1832, in opening the negotiation under the vote of the Senate, for a settlement of the TREATY line, "That if the Plenipotentiaries should fail in a new attempt to agree upon the line intended by the Treaty of 1783, there would probably be less difficulty than before in fixing a convenient boundary, as measures were in progress to obtain from the State of Maine, more extensive powers than were before possessed, with a view of overcoming the constitutional obstacles which had opposed themselves to such an arrangement."

If a direct proposition had come to us, through the General Government, for a specific line of boundary, yielding to us territory, or privileges of navigation equivalent to the unsettled territory which we might cede to them, it would certainly have presented the question in a different aspect. But the question *now* is, as I understand it, whether we shall take the lead in abandoning the Treaty and volunteer propositions for a conventional line.

In respect to the proposition for additional surveys, as it seems to me inexpedient for this State to acquiesce in the proposed negotiation for a conventional line, until it is *demonstrated* that the treaty line is utterly impracticable and vop for uncertainty,—I can have no doubt that the line ought to be run, either by a joint commission of exploration and survey, or independently by our General Government, by its own surveyors. It is evident to me, that Great Britain is determined to avoid, if possible, such an examination and exploration and establishment of the line, and such proof of the real facts of the case.

It will be perceived that the President intimates that if the consent of Maine is not obtained, for entering into direct negotiations for a conventional line, and all other measures failing, "He will feel it to be his duty to submit another proposition to the Government of Great Britain to refer the decision of the question to a third party."

As this right is claimed on the part of the President as within his constitutional powers, without the consent of Maine, and as no action on the part of Maine in reference to this mode of adjustment is asked by the President, I forbear to comment upon it, but refer it to your consideration.

Our situation in relation to this interesting question at this moment demands the exercise of cool and dispassionate judgment, and careful, cautious, but firm action. We owe it to the General Government, and our sister States, to do nothing rashly or hastily—to bear and forbear for the sake of the peace of the nation and the quiet of our borders. But we have a duty to perform to ourselves and our constituents, who have entrusted the rights and honor of Maine to our keeping. Relying upon your patriotism and intelligence and caution, I place these documents before you, and ask your action upon them, in the confident hope that the rights and the territories secured to us by our fathers, in the field and the cabinet, will not be impaired or surrendered.

EDWARD KENT.

Council Chamber, March 14, 1838.

## XII.

North-eastern  
Boundary.  
Arrest of E. Greely.  
Fortifications.



## STATE OF MAINE.

*In Senate, March 14, 1838.*

XII.

North-eastern  
Boundary.Arrest of E. Greely,  
Fortifications.Read and referred to the Committee on the North Eastern Boundary.  
Sent down for concurrence.NATH'L S. LITTLEFIELD,  
President.*House of Representatives, March 14, 1838.*Read and referred in concurrence; and *ordered* that said Committee be instructed to procure the printing of 5000 copies thereof together with the accompanying papers for the use of the Legislature as soon as it can be done in the printing offices of this and the neighbouring towns.

Sent up for concurrence.

E. H. ALLEN,  
Speaker.*In Senate, March 14, 1838.*The Senate nonconcur the House in the printing of these documents.  
Sent down for concurrence.N. S. LITTLEFIELD,  
President.*House of Representatives, March 15, 1838.*

The House recede and concur.

E. H. ALLEN,  
Speaker.*Extract of a Letter from the Hon. John Forsyth to Governor Kent.*

In January last, Mr. Fox, the British Minister at Washington, made a communication to the Department of State in which with reference to the objection preferred by the American Government, that it had no power, without the consent of Maine, to agree to the arrangement proposed by Great Britain, since it would be considered by that State as equivalent to a cession of what she regards as a part of her territory,—he observed, that the objection of the State could not be admitted as valid, for the principle on which it rested was as good for Great Britain as it was for Maine---that if the State was entitled to contend that, until the treaty line was determined, the boundary claimed by Maine must be regarded as the right one, Great Britain was still more entitled to insist on a similar pretension, and to assert that, until the line of the Treaty shall be established satisfactorily, the whole of the disputed territory ought to be considered as belonging to the British Crown; since Great Britain was the original possessor, and all the territory which had not been proved to have been, by treaty, ceded by her, must be deemed to belong to her still. But Mr. Fox said the existence of these conflicting pretensions pointed out the expediency of a compromise—and why, he asked, as a conventional line different from that described in the Treaty was agreed to with respect to the boundary westward from the Lake of the Woods, should such a line not be agreed to likewise for the boundary eastward from the Connecticut? Her Majesty's Government could not, he added, refrain from again pressing this proposition upon the serious consideration of the United States as the arrangement best calculated to effect a prompt and satisfactory settlement between the two powers.

With reference to the American proposition to make the River St. John, from its mouth to its source, the boundary, Mr. Fox remarked that it was difficult to understand upon what grounds any expectation could have been formed that such a proposal could be entertained by the British Government; for such an arrangement would give to the United States even greater advantages than they would obtain by an unconditional acquiescence in their claims to the whole of the disputed territory—because it would give to Maine all the disputed territory lying south of the St. John—and in exchange for the remaining part of the territory lying to the north of the St. John, would add to the State of Maine a large district of New Brunswick—a district smaller in extent, but much more considerable in value than the portion of the disputed territory which lies to the north of the St. John.

With regard to the proposition for the appointment of a Commission of Exploration and Survey, Mr. Fox stated that Her Majesty's Government, with little expectation that it could lead to a useful result, but, unwilling to reject the only plan left which seemed to afford a chance of making a further advance in this matter, would not withhold their consent to such a Commission, if the principle upon which it was to be formed, and the manner in which it was to proceed, could be satisfactorily settled—that of the two modes proposed in which such a Commission might be constituted, Her Majesty's Government thought the first, viz: that it might consist of Commissioners named in equal numbers by each of the two Governments, with an Umpire to be selected by some friendly European power, would be the best; but suggested that it might be better that the Umpire should be selected by the members of the Commission themselves, rather than that the two Governments should apply to a third Power to make such a choice—that the object of this Commission should be to explore the disputed territory in order to find within its limits dividing highlands which might answer the description of the Treaty—the search to be made in a north and north west line from the monument at the head of the St. Croix—and that Her Majesty's Government had given their opinion that the Commissioners should be instructed to look for highlands which both parties might acknowledge as fulfilling the conditions of the Treaty.

In answer to the inquiry how the report of the Commissioners would, according to the views of Her Majesty's Government be likely, when rendered, to lead to an ultimate settlement of the boundary question, Mr. Fox observed that, since the proposal for the appointment of a Commission originated with the Government of the United States, it was rather for that Government than the Government of Great Britain to answer this question—Her Majesty's Government had already stated they had little expectation that such a Commission could lead to any useful result, &c. ; but that Her Majesty's Government in the first place, conceived that it was meant by the Government of the United States that if the Commissioners should discover highlands answering to the description of the Treaty, a connecting line from them to the head of the St. Croix should be deemed to be a portion of the boundary between the two countries. Mr. Fox further referred the Secretary to the previous notes of Mr. McLane on the subject, in which it was contemplated as one of the possible results of the proposed Commission that such additional information might be obtained of the features of the country as might remove all doubts as to the impracticability of laying down a boundary in accordance with the letter of the Treaty. Mr. Fox said that the investigations of the Commission should show that there was no reasonable prospect of finding the line described in the Treaty of 1783, the constitutional difficulties which now prevented the United States from agreeing to a conventional line might possibly be removed, and the way be thus prepared for a satisfactory settlement of the difference by equitable division of the territory: but, he added in conclusion, if the two Governments should agree to the appointment of such a Commission, it would be necessary that their agreement should be by a Convention, and it would be obviously indispensable that the State of Maine should be an assenting party to the arrangement.

In acknowledging the receipt of Mr. Fox's communication at the Department, he was informed, 7th February, that the President experienced deep disappointment in finding that the answer just presented on the part of the British Government to the proposition made by this Government with the view of effecting the settlement of the boundary question, was so indefinite in its terms as to render it impracticable to ascertain without further discussion what were the real wishes and intentions of Her Majesty's Government, respecting the appointment of a Commission of Exploration and Survey—but that a copy of it would be transmitted to the Executive of Maine, for the purpose of ascertaining the sense of the State authorities upon the expediency of meeting the views of Her Majesty's Government, so far as they were therein developed.

Occasion was taken at the same time to explain to Mr. Fox, in answer to the suggestion in his note of the 10th of January last, that the parallel of latitude adopted as a conventional substitute for the line designated in the Treaty for the boundary westward from the Lake of the Woods, passed over territory within the exclusive jurisdiction of the General Government, without trenching upon the rights and claims of any member of the Union; and the legitimate power of the Government therefore to agree to such line was held to be perfect: but that in acceding to a conventional line for the boundary eastward from the river Connecticut it would transcend its constitutional powers, since such a measure could only be carried into effect by violating the jurisdiction of a Sovereign State, and assuming to alienate a portion of the territory claimed by such State.

In reply to the observation of Mr. Fox, that it was difficult to understand upon what ground an expectation could have been entertained that the proposition to make the St. John the boundary, would be received by Her Majesty's Government, he was informed that the suggestion had been offered as the proposition on the part of Great Britain that led to it was supposed to have been, without regard to the extent of territory lost or acquired by the respective parties,—and in the hope that the great importance of terminating this controversy by establishing a definitive and indisputable boundary, would be seen and acknowledged by the British Government, and have a correspondent weight in influencing its decision—that the suggestion in Mr. Bankhead's note of 28th December, 1835, of a part of the River St. John, as a portion of the general outline of a conventional boundary, apparently recognized the superior advantages of a river over a highland boundary—and that no difficulty was anticipated on the part of Her Majesty's Go-

XII.

North-eastern  
Boundary.

Arrest of E. Greely.  
Fortifications.



## XII.

North-eastern  
Boundary.

Arrest of E. Greely,  
Fortifications.

vernment in understanding the grounds upon which such a proposal was expected to be entertained by it, since the precedent proposition of Mr. Bankhead just alluded to, although based upon the principle of an equal division between the parties, could not be justified by it, as it would have given nearly two-thirds of the disputed territory to Great Britain—that it was therefore fair to presume that the river line, in the opinion of Her Majesty's Government, presented advantages sufficient to counterbalance any loss of territory by either party, that might accrue from its adoption; and it was also supposed that another recommendation of this line would be seen by Great Britain in the fact that whilst by its adoption, the right of jurisdiction alone would have been yielded to the United States over that portion of New Brunswick south of the St. John, Great Britain would have acquired the right of soil and jurisdiction of all the disputed territory north of that river.

To correct a misapprehension into which Mr. Fox appeared to have fallen, the distinctive difference between the American proposition for a Commission, and the proposition as subsequently modified by Great Britain, was pointed out, and he was informed that although the proposal originated with this Government, the modification was so fundamentally important, that it entirely changed the nature of the proposition; and that the supposition, therefore, that it was rather for the Government of the United States than for that of Great Britain to answer the inquiry preferred by the Secretary of State for information relative to the manner in which the report of the Commission, as proposed to be constituted and instructed by the British Government, might tend to a practical result, was unfounded. Mr. Fox was also given to understand that any decision made by a Commission constituted in the manner proposed by the United States, and instructed to seek for the highlands of the Treaty of 1783, would be binding upon this Government, and could be carried into effect without unnecessary delay, but if the substitute presented by Her Majesty's Government should be insisted on, and its principles be adopted, it would then be necessary to resort to the State of Maine for her assent in all proceedings relative to the matter, since any arrangement under it can only be for a conventional line to which she must be a party.

In conclusion, it was intimated to Mr. Fox, that if a negotiation be entertained by this Government at all upon the unsatisfactory basis afforded by the British counter-proposition or substitute, the President will not invite it, unless the authorities of the State of Maine shall think it more likely to lead to an adjustment of the question of boundary than the General Government deemed [it] to be, although predisposed to see it in the most favorable light.

Your Excellency will perceive that, in the course of these proceedings, but without abandoning the attempt to adjust the treaty line, steps necessarily, from the want of power in the Federal Government, of an informal character have been taken, to test the dispositions of the respective Governments upon the subject of substituting a conventional for the treaty line. It will, also, be seen from the correspondence, that the British Government, despairing of a satisfactory adjustment of the line of the Treaty, avows its willingness to enter upon a direct negotiation for the settlement of a conventional line, if the assent of the State of Maine to that course, can be obtained.

Whilst the obligations of the Federal Government to do all in its power to effect a settlement of this boundary, are fully recognized on its part, it has in the event of its being unable to [do] so specifically by mutual consent, no other means to accomplish the object, amicably, than by another arbitration, or a Commission with an Umpire, in the nature of an arbitration. In the contingency of all other measures failing, the President will feel it to be his duty to submit another proposition to the Government of Great Britain to refer the decision of the question to a third party. He would not, however, be satisfied in taking this final step without having first ascertained the opinion and wishes of the State of Maine upon the subject of a negotiation for the establishment of a conventional line, and he conceives the present the proper time to seek it.

I am, therefore, directed by the President to invite your Excellency to adopt such measures as you may deem necessary to ascertain the sense of the State of Maine with respect to the expediency of attempting to establish a conventional line of boundary between that State and the British possessions, by direct negotiation between the Governments of the United States and Great Britain—and whether the State of Maine will agree, and upon what conditions, if she elects to prescribe any, to abide by such settlement, if the same be made? Should the State of Maine be of opinion that additional surveys and explorations might be useful, either in leading to a satisfactory adjustment of the controversy according to the terms of the Treaty, or in enabling the parties to decide more understandingly upon the expediency of opening a negotiation for the establishment of a line that would suit their mutual convenience, and be reconcilable to their conflicting interests,—and desire the creation, for that purpose, of a commission upon the principles, and with the limited powers, described in the letter of Mr. Fox, the President will, without hesitation, open a negotiation with Great Britain for the accomplishment of that object.

I have the honor to be, &c.

(Signed)

JOHN FORSYTH

No. 4.—*J. T. Sherwood, Esq. to J. Bidwell, Esq.—(Received May 3.)*

*British Consulate, Maine and New Hampshire,*

*Portland, March 23, 1838.*

(Extract.)

IN my despatch, dated the 15th inst., respecting the Governor's Message to the Legislature of the State of Maine, in relation to the recent propositions received from the Federal Government at Washington, on the subject of the North Eastern Boundary, I ventured to express my opinion, that the disapproval of the Governor, as mentioned in his Message, would be adhered to by the Legislature; how far I have erred in this opinion will be gathered from the inclosed copy of the Report of the Committee\*, to whom the said Message was referred.

I have the honor to be, &c.

*John Bidwell, Esq.,*

(Signed)

JOS. T. SHERWOOD.

[\* See Inclosure 2 in No. 3.]

XII.

North-eastern  
Boundary.

Arrest of E. Greely.  
Fortifications.

No. 5.—*J. T. Sherwood, Esq. to John Bidwell, Esq.—(Received May 21.)*

*British Consulate, Maine and New Hampshire,*

*Portland, March 24, 1838.*

(Extract.)

HAVING already transmitted to you for the information of My Lord Palmerston, the several printed Reports and Proceedings thereon, in the Legislature of the State of Maine, in relation to the North Eastern Boundary,—

I have now the honor to inclose a newspaper containing a copy of the last Report and Resolves with the actions of the Senate on the same subject up to the evening of the 22d current month.

I am, &c.

*John Bidwell, Esq.*

(Signed)

JOS. T. SHERWOOD.

Inclosure in No. 5.

*Tuesday, March 20, 1838.*

The report and resolves in relation to the North-Eastern Boundary, were called up by Mr. Greene. Mr. Ham moved a recommitment, for he thought there were some objectionable points in the report. Mr. Dumont was astonished that *that* gentleman should have made such a motion, since his name was attached to the report, and he must have given his assent thereto. He trusted he would not be so fickle as to oppose his own report now. That report was signed by every member of the committee, and he saw no necessity for recommitting. Mr. Boutelle said he should have liked it better, if the gentleman from York had put his finger on the points to which he objected. The report was read to the committee, and some objections were made to it, and it was committed to a sub-committee, composed of the gentlemen from York, himself and two members of the House, and then was approved. He did not believe any good would result from the recommitment, nor did he think that any man was committed by accepting the report.

Mr. Dumont thought it was strange that the gentleman should declare that he did not understand the report; such an assertion was paying no great compliment to his intelligence. He trusted the gentleman would not *shrink from any responsibility* on this subject; that they were not about to abandon the Treaty of '83, and re-enact the farce of 1832. He had hoped that the Senate would come out like men, and speak with a united voice, and he believed the recommitment would cause needless delay, and prevent any action on the subject—any response to the general government.

Mr. Greene would never approve of a report that was drawn for *party* purposes; and agreed with the Governor that all *party* feelings should be thrown out of the scale. It was difficult to catch the meaning of any document by hearing it read, and he did not think that the gentlemen who signed the report were justly subject to the charge of vacillation, because they now ask for the recommitment. Are they, said Mr. G. because they signed that report, to be *dragooned* into sanctioning all the principles and reasoning there contained? He would never vote for imputations on the general government in the least particular.

Mr. DUMONT retorted; the gentleman has asked if those who signed the report, are to be dragooned into its support? Permit me, said he, to ask if they are to be *dragooned out of it*? Aye, that is the true question. Are they who approved yesterday, to be *dragooned out* of their opinion to-day? The gentleman says he will vote for no imputation on the General Government. I cannot blame him for that,—he would be *ungrateful*, if he did, under the *circumstances of the case*. But, it is said, this report is of a *party* character. Mr. D. could not see it. Why has not the gentleman pointed out its *party* features? It is the *truth* and nothing but the *truth*, and if he objects to *that*, he is welcome to his objections. We should look to the honor and integrity of the



## XII.

North-eastern  
Boundary.  
Arrest of E. Greely.  
Fortifications.

State—our own State, and not yield up every thing to the General Government, and indicate ourselves ready to sell our territory and our sovereignty for *swamps* in *Michigan*. If Maine had assumed high and manly ground—if there had been no cringing dough faces in the State Government, her rights would have been better respected and protected.

Mr. RANDALL said, if gentlemen would point out any thing that was not true in the report, he would be willing to favor the recommitment;—but if the *facts* cast a censure on the United States Government, then be it so. He was for telling the truth and nothing but the truth.

Mr. GREENE thought the gentleman from Kennebec, might be as much influenced in his action here, by favors expected, as any member of this board. He did not so much object to the *facts*, as to the *manner* in which they were expressed. He would not say that the course the General Government had pursued on this subject, was what it should have been, but they may have made propositions for its settlement, and these propositions been rejected; they may have done all they could towards a negotiation, and he did not believe they were willing to abandon this question.

Mr. E. ROBINSON was unwilling such a document should be of a party character, but still, whenever the rights and interests of Maine came in collision with the action of the Government, it was our duty to stand by our own State, point out and expose the erroneous doctrines of the United States. He could perceive no *party* feature in this report, and was willing to give it his support.

Mr. BOUTELLE thought the gentlemen who maintained that this was a *party* report, paid but little compliment to the sagacity of the gentlemen of *their own party* on the Committee who *signed* the report. Why did they then not see its party nature yesterday?—Have they received any *new light*, since that time? If so, *when*, *where*, and *how* did they receive it?—How does it happen that a report should be *perfectly correct*, contain no party doctrines, and receive the sanction and signature of the Committee yesterday, when to-day it savors so rankly of party, that gentlemen cannot stomach it?

Wednesday, March 21.

Messrs. Codman, Tenney, and Sheldon opposed the amendment, on the ground that the State has not the power to carry the line into effect; that power belongs to the Government of the United States. Messrs. Hamlin and Delesdernier replied. Mr. Codman spoke at length and with spirit against the amendment, as taunting and threatening towards the General Government. Mr. Hamlin replied, and proposed the following modification of the amendment—"and the people of this State believe they have the right, and will demand that it be carried into effect." Mr. Codman asked how that varied the sense of the resolution? Mr. Hamlin read the resolution and amendment. Mr. Tenney replied to the remarks of Mr. H. and alluded to the former course of the two political parties. He concluded by saying that if the gentlemen from Hampden would point out a single new idea in the modification now proposed, and it were a proper one, he would go for it; until then he should prefer the resolutions as they are. Mr. Goodenow said the modification was not very important, but he hoped the House would adopt it for the sake of harmony. Mr. Underwood reminded the present minority, that when they were in the majority in 1833, they refused to modify their resolutions respecting South Carolina Nullification so that the then minority could vote for them—nor even so that one of their own number (Mr. Cilley) could vote for them. Farther remarks were made by Messrs. Levensaler and Codman, and the amendment was negatived, 45 to 74. Mr. Codman moved that the report and resolutions be laid on the table and 5000 copies be printed together with the Governor's Message and Mr. Livingston's communication—negatived. The resolutions were then unanimously passed.

Thursday, March 22.

THE Report and Resolves on the N. E. Boundary, came from the House non-concurred. Mr. Ham moved to recede from the vote to recommit—prevailed. Mr. Ham then moved to amend by striking out his own name. Mr. Boutelle considered this report the property of the two branches, and that the Senate has no right to amend it. It has been printed by the gentleman's consent and with his name attached, and gone forth to the world, *and he* cannot now retract *that*.—Mr. B. trusted that the expunging system was not to come into practice in this body, for if he understood the motion, that would be its effect.

Mr. Belcher said the gentleman from York, (Mr. H.) yesterday was ready for *action*, immediate action, and he was glad to go with him in his action, but he thought the *reaction* he proposed was injudicious, and he should not go for it. Mr. Ham then withdrew his motion and asked that it be laid on the table; on which the yeas and nays were ordered, and decided by a *party* vote.

The Resolves were then taken up, and Mr. Ham moved to amend by striking out the words "The committee submit the following Resolutions," and insert "State of Maine, Resolves relative to the N. E. Boundary,"—adopted by a party vote. Mr. Boutelle moved to consider the vote whereby the amendment of the House was accepted. Mr. Greene, Osgood, Smart, Emery and Dumont opposed; and Boutelle, Randall, Belcher and Robinson supported the motion—4 yeas and 19 nays. The resolves then passed to be engrossed *unanimously*.

## STATE OF MAINE.

THE Joint Select Committee on the North Eastern Boundary, to whom was referred the Message of the Governor, transmitting a communication to him from the Secretary of the United States, with the correspondence therein referred to, in reference to the North Eastern Boundary, have had the same under consideration, and ask leave to

## XII.

North-eastern  
Boundary.  
Arrest of E. Greely.  
Fortifications.

## REPORT :

THAT they have given to the interesting and grave subjects, presented in Mr. Forsyth's letter to the Governor, all the consideration which the very limited time allowed them, will permit. It is worthy of remark, that this is the first time since the commissioners under the Treaty of Ghent then made their respective reports in 1823 or 1824, that the government of the United States have thought it necessary to apply directly to this State for its consent to the action of the Federal Government. This state has always contended, and still contends, that the Federal Government has no authority to surrender or alienate, either with or without an "ample indemnity," any portion of our territory, unless the consent of the people of this State is first had and obtained. On the 21st July, 1832, Mr. Livingston informed Mr. Bankhead, the British Chargé d'Affaires, of the determination of the Senate of the United States not to consider the decision of the King of the Netherlands as obligatory, and that that body had advised the President of the United States to open a *new negotiation* with the British Government for settling of the Boundary line *according to the Treaty of 1783*. On the 28th April, 1835, Mr. Forsyth, in his letter to Sir Charles R. Vaughan, speaking of this determination and advice of the Senate of the United States says: "the parties were thus placed in respect to the disputed Boundary, in the situation respectively occupied by them, before the conclusion of the Convention of 24th Dec., 1814, in virtue of which, the various measures, that had been successively adopted, to bring this controversy to a satisfactory termination, were commenced, leaving the President with no other rightful authority for its adjustment, than that of opening a new negotiation for the settlement of the question according to the terms, and upon the principles of the Treaty of 1783." And Mr. Fox in his communication to Mr. Forsyth, of the 10th January, 1838, says: "thus then the award of the King of the Netherlands, has been abandoned, by both parties, in consequence of its rejection by the American Senate, and a negotiation between the two governments for a conventional line, suited to the interests and convenience of the two parties, has, for the present been rendered impossible, by difficulties arising on the part of the United States; and both governments are alike averse to a new arbitration."

The question here naturally arises, has the Federal Government since 1832, to the present moment, commenced a negotiation for the ascertainment of the line of 1783, and for no other? The answer to this is to be found in the correspondence between the Federal Government and the British minister, and we are constrained to say, from a careful examination of it, we cannot find the trace of such a negotiation; but we do find, that the Federal Government were willing to abandon the starting point in the Treaty of 1783, the North West Angle of Nova Scotia, and to run a line from the monument, not *due North*, but *Westerly*, so as to strike the highlands, if the highlands contemplated in the treaty could not be found in a *due North* course, and in all this, and in former negotiations, Maine was not consulted. Fortunately for us the British Minister, all willing as he was to be rid of the restraints of a *due "North line,"* refused to accede to this proposition. In this Maine was not, as she ought to have been, solicited by the Federal Government, to become a party—but why it may be asked, have almost six years been suffered to elapse, without opening such a new negotiation, as was contemplated by the resolutions of the United States Senate in July 1832; We are informed by the President in his message of 1837, "that we are apparently as far from its adjustment, as we were at the time of signing the Treaty of Peace in 1783." During the whole of this period the British Minister shews a very ardent zeal, and takes every occasion to propose to our government the expediency of treating for a conventional line, and, in his letter to Mr. Livingston of 11th May, 1833, says: "he is convinced it is hopeless to expect a favorable result from a renewed negotiation upon that basis," the Treaty of 1783.

The great object of the British Government seems to have been to protract the negotiation, and to consume time, in order to obtain some admission from our government, which might have the effect to strengthen her claims; and in all this we are grieved to say, she has been but too successful. As to wasting time, she can well afford to be prodigal of it; for she now claims to have the exclusive jurisdiction, possession, and control of the whole territory, and if her pretensions, which have all sprung up within the last twenty years, which first consisted in asking a "*cession* of only that small portion of unsettled country, which interrupts the communication between Halifax and Quebec for an equivalent," and which have since expanded to a claim of more than one third of our State, can be tolerated for twenty years more, resistance to them will



## XII.

North-eastern  
Boundary.

Arrest of E. Greely.

Fortifications.

become unavailing. Maine then complains of this delay. The proposition is now made by the Federal Government, that this State shall give its consent, that the former may open a negotiation with the British Government, not on the basis of the Treaty of 1783, nor for any specific line, but for a conventional line—such a line, as we have reason to apprehend, as we find indicated in Mr. Bankhead's letter to Mr. Forsyth, under date Dec. 28, 1835, in which he says, "when a tract of country is claimed by each of two States, and each party is equally convinced of the justice of its own claims to the whole of the district in question, the just way of settling the controversy would seem to be to divide in *equal portions* between the two claimants the territory in dispute—such a mode of arrangement appears to be consistent with the natural principles of equity." He, therefore, proposes to adjust the present difference by *dividing equally* between Great Britain and the United States the territory in dispute. To which Mr. Forsyth, in his letter of the 29th February, 1836, to Mr. Bankhead, replies, "That equity in disputes about territory, when both parties are satisfied of the justice of their respective pretensions, requires a fair division of the disputed property, is a truth the President freely admits, but he is instructed to remind Mr. Bankhead of what has been heretofore stated, that, in a conventional line, the wishes and interests of the State of Maine were to be consulted, and that the President cannot, in justice to himself, or to that State, make any proposition utterly irreconcilable with its previous well known opinions on the subject."

The conventional line sought by Great Britain is here plainly indicated, and strange to say, the President seemed more than half disposed to yield to it, "but the well known opinions of Maine" forbade it. It is very evident from the whole correspondence, that the only conventional line in contemplation of the British Government, is a division of the territory, in some proportion, between Maine and New Brunswick. If to such a proposition Maine should give her assent, it is difficult to perceive how a dispute similar to the present is to be avoided; for the description of the boundary in the Treaty of 1783 is believed to be full, perfect, and explicit; and if a conventional line should be agreed upon between the two governments, how could such a line, described in a new Treaty, be found with more facility and certainty than that indicated by the Treaty of 1783? Until an attempt to trace the latter boundary shall be made and prove abortive, we cannot but fear, that, after a relinquishment of a portion of our rightful territory, the same obstacles will be presented in an effort to establish and trace a conventional line.

It appears that our government proposed to that of Great Britain, that a new survey of the disputed territory should be made by Commissioners to be named by the parties, and that the Commissioners should explore the country, and trace a boundary line conformable to the Treaty of 1783. To this it was replied by the British Government, that certain preliminary points must be settled before such Commissioners could be agreed upon; such as what were the kind of highlands required by the Treaty of 1783, and whether the rivers flowing into the Bay of Fundy could be considered Atlantic rivers. And Mr. Forsyth in his letter of 7th February, 1838, to Mr. Fox, in answer to his letter of 10th January, 1838, says, "he perceives, with feelings of deep disappointment, that the answer now presented to the propositions made by this government with the view of effecting that object, after having been so long delayed, notwithstanding the repeated intimations, that it was looked for here with much anxiety, is so indefinite in its terms, as to render it impracticable to ascertain, without further discussion, what are the real wishes and intentions of Her Majesty's Government respecting the proposed appointment of a Commission of exploration and survey to trace out a boundary according to the letter of the Treaty of 1783." In the same letter he says, "It is now intimated that Her Majesty's Government will not withhold its consent to such a commission, if 'the principle, upon which it is to be formed, and the manner in which it is to proceed, can be satisfactorily settled.'" This condition is partially explained by the suggestion afterwards made, that instead of leaving the umpire to be chosen by some friendly European Power, it might be better that he should be elected by the members of the Commission themselves, and a modification is then proposed, "that the Commission shall be instructed to look for highlands which both parties might acknowledge as fulfilling the conditions of the Treaty." The American proposition is intended, and if agreed to, would, doubtless, be successful to decide the question of boundary definitively by the adoption of the highlands reported by the Commissioners of surveys and would thus secure the treaty line. The British modification looks to no such object.

To such a conventional line, or to such a commission of survey, we believe the people of this State are not prepared to assent; they ask, and they think they have a right to demand, that after the lapse of more than half a century, the eastern line of our State in its whole extent shall be run and established according to the Treaty 1783. The Governor's Message, communicating Mr. Forsyth's letter, contains, as your Committee believe, sound views and doctrines, and will be responded to by every citizen of Maine.

Your Committee believe it extremely desirable, that the line should be run by the United States Government, and to this end, that the "Bill to provide for the survey of the North Eastern Boundary of the United States," &c. now pending in Congress, should become a law.

In regard to the intimation, that if this State will not consent to a conventional line, the President will feel himself bound to agree to an arbiter or third party, your

committee would suggest whether the fifth article in the Treaty of Ghent, relating to an arbiter, has not done its office, and is no longer in force; and we cannot believe that the British Government regard it as binding, when her Minister, Mr. Fox, has declared that "both Governments are alike averse to a new arbitration."

It is true that the late arbitration has failed to accomplish what was expected of it by the parties, but this failure is, in no respect, to be attributed to any fault on the part of the United States; but has arisen from circumstances beyond the control of the parties.

Mr. Forsyth, in his letter of 28th April, 1835, to Sir Charles R. Vaughan, seems to consider the subject in this light, as will be seen in the passage above quoted, and in the same letter he says, "the submission of the whole subject or any part of it, to a new arbitrator, promised too little to attract the favorable consideration of either party." To the correctness of which Mr. Vaughan assents in his letter to Mr. Forsyth of May 4, 1835.

While your Committee, on the one hand, would advise no rash measures, which might lead to collision on our borders, or compromit the peace of the country, we would say, if the time has not already come, it is fast approaching, when Maine should be prepared to assert her just rights to this territory, and extend the protection of her laws to all the people within her bounds; and she has a right to insist, and will insist, in this event, that it is the duty of the Federal Government to come up to her aid promptly and effectually, and that it will not then be said, in the language of the late Governor Dunlap, "that the justice due to this State in this respect has not been rendered."

E. L. OSGOOD, T. BOUTELLE. L. J. HAM, EBEN. HIGGINS, S. S. WHIPPLE,	} of the Senate.	
P. SHELDON, JOHN S. TENNEY, R. K. GOODENOW, N. E. ROBERTS, THOMAS CARLL, THOMAS FOWLER, Jun. PETER T. HARRIS, ATWOOD LEVENSALER, JOHN SMALL, Jun. RUFUS TRUSSELL,		} of the House.

The Committee submit the following resolutions.

Resolved, That it is not expedient to give the assent of this State to the Federal Government to treat with that of Great Britain for a conventional line for our North Eastern Boundary, but that this State will insist on the line established by the Treaty of 1783.

Resolved, That as this State has never heretofore given her consent to the appointment of an umpire under the Treaty of Ghent in 1814, but has protested against the same, and as she believes it to be a grave question whether the provision in the Treaty for this purpose has not done its office and is therefore no longer in force, she is not now prepared to give her assent to the appointment of a new Arbiter.

Resolved, That our Senators and Representatives in Congress be requested to urge the passage of a Bill for the survey of the North-Eastern Boundary of the United States, &c. now pending in Congress.

Resolved, That the Governor be requested to transmit to the President of the United States one copy of his Message to the Legislature on the subject of the North Eastern Boundary, and this Report and Resolutions, and one copy of the same to each of the Heads of Departments at Washington; one copy to each of our Senators and Representatives in Congress, and one copy to the Governor of Massachusetts.

No. 6.—*J. T. Sherwood, Esq. to John Bidwell, Esq.*—(Received April 26.)

*British Consulate, Maine and New Hampshire,  
Portland, March 26, 1838.*

Sir,

HAVING forwarded to you in my several Despatches of the 14th, 15th, 22d, 23d, and 24th inst., for the information of my Lord Palmerston, all the proceedings which have taken place in the Legislature of the State of Maine, in regard to the North Eastern Boundary, and the commerce with the Provinces of Nova Scotia and New Brunswick. —I now crave the honor to inclose you, for the like purpose, copies of the Resolves on the same subject, as finally passed that body, and approved by the Governor.

Also the Governor's Message and Resolves of the said Legislature, in relation to fortifications on the frontier, being the final Act, it having adjourned on the 24th instant, without day.

I have the honor to be, &c.

*John Bidwell, Esq.*

(Signed)

JOS. T. SHERWOOD.

XII.

North-eastern  
Boundary.

Arrest of E. Greely.  
Fortifications.



Inclosure in No. 6.

*Message to the Senate and House of Representatives.*

XII.

North-eastern  
Boundary.Arrest of E. Greely.  
Fortifications.

I FEEL it my duty respectfully to call your attention to the propriety and expediency of taking some measures before you separate, to express and urge the claims and rights of this State, in relation to the fortifications and defences upon our coast and rivers. Former Legislatures have called the attention of the General Government to this subject; but the works have not yet been commenced, and no recent movement has been made. It is unnecessary for me to enter into a detail of reasons which, at this moment particularly, justify and require a strong and urgent representation addressed to the General Government on this subject. Maine ought not to be left defenceless or exposed in so many points any longer. If her claims are presented by you, as representatives of the people, in respectful but strong language, we may confidently trust that they will not be neglected or postponed at this important crisis.

(Signed)

EDWARD KENT.

*Council Chamber, March 22, 1838.*

## STATE OF MAINE.

*Resolves relating to Fortifications on our Frontier.*

**RESOLVED**—That the maritime frontier and the extensive interior position of this State, are in a defenceless and exposed situation, and we rely with confidence that the Federal Government will cause suitable fortifications to be erected for the defence of the same.

**Resolved**—That the erection of a strong fortification in some eligible position in the Eastern section of this State, is imperatively and loudly called for by the increasing necessity of extending the protection of our laws to the citizens living in that vicinity.

**Resolved**—That our Senators in Congress be instructed, and our Representatives requested, to use their influence to procure suitable appropriations for the objects contemplated in the foregoing Resolves.

**Resolved**—That the Governor be requested to send one copy of his Message to the Legislature, in relation to Fortifications; and one copy of these Resolves to the President and Vice President of the United States, to each of the Heads of Department at Washington, and to each of our Senators and Representatives in Congress.

In the House of Representatives, March 23, 1838—Read and passed.

(Signed)

ELISHA H. ALLEN, Speaker.

In Senate, March 23, 1838—Read and passed.

(Signed)

N. S. LITTLEFIELD, President.

March 23, 1838—Approved.

(Signed)

EDWARD KENT.

## STATE OF MAINE.

*Resolves in relation to the North Eastern Boundary.*

**RESOLVED**—That it is not expedient to give the assent of this State to the Federal Government, to treat with that of Great Britain for a conventional line for our North Eastern Boundary; but that this State will insist on the line established by the Treaty of 1783.

**Resolved**—That as this State has never heretofore given her consent to the appointment of an umpire under the Treaty of Ghent in 1814, but has protested against the same; and as she believes it to be a grave question whether the provisions in the Treaty for the purpose has not done its office, and is therefore no longer in force, she is not now prepared to give her assent to the appointment of a new Arbiter.

**Resolved**—That our Senators and Representatives in Congress be requested to urge the passage of a Bill for the survey of the North Eastern Boundary of the United States, &c., now pending in Congress; and that if said Bill shall not become a law during the present session of Congress, and if the Government of the United States, either alone or in conjunction with Great Britain or the State of Maine, shall not, on or before the first day of September next, establish and appoint a Commissioner for a survey of said Boundary Line, it shall then be the imperative duty of the Governor, without further delay, to appoint forthwith suitable Commissioners and Surveyors for ascertaining, running, and locating the North Eastern Boundary Line of this State, and to cause the same to be carried into operation.

**Resolved**—That the Governor be requested to transmit to the President of the United States one copy of his Message to the Legislature on the subject of the North Eastern Boundary, and these Resolves, and one copy of the same to each of the Heads of Department at Washington, one copy to each of our Senators and Representatives in Congress, and one copy to the Governor of Massachusetts.

In the House of Representatives, March 23, 1838—Read and passed.

(Signed)

E. H. ALLEN, Speaker.

In Senate, March 23, 1838—Read and passed.

(Signed)

N. S. LITTLEFIELD, President.

March 23, 1838—Approved.

(Signed)

EDWARD KENT.

# NORTH AMERICAN BOUNDARY.

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## PART I.

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### CORRESPONDENCE

RELATING TO THE

### BOUNDARY

BETWEEN THE

BRITISH POSSESSIONS IN NORTH AMERICA

AND THE

UNITED STATES OF AMERICA,

UNDER THE

TREATY OF 1783.

---

*Presented to both Houses of Parliament by Command of Her Majesty.  
July, 1840.*

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LONDON:  
PRINTED BY T. R. HARRISON.



# LIST OF PAPERS.

No.				Page
1.	Mr. Fox to Viscount Palmerston.....	Washington,	February 13, 1838.	1
2.	Mr. Fox to Viscount Palmerston.....	Washington,	April 5, —	1
	Inclosures.			
	1. Mr. Fox to Mr. Forsyth .....	Washington,	January 10, —	2
	2. Mr. Fox to Mr. Forsyth .....	Washington,	January 10, —	4
	3. Mr. Forsyth to Mr. Fox .....	Washington,	February 7, —	6
	4. Mr. Forsyth to Mr. Fox .....	Washington,	February 6, —	8
3.	Mr. Fox to Viscount Palmerston.....	Washington,	May 4, —	11
	Inclosures.			
	1. Mr. Forsyth to Mr. Fox .....	Washington,	April 27, —	12
	2. Governor Kent's Message to the Maine Legislature .....		March 14, —	13
	3. Resolves of the State of Maine in relation to the North-eastern Boundary .....		March 23, —	17
	4. Mr. Fox to Mr. Forsyth .....	Washington,	May 1, —	17
4.	Mr. Fox to Viscount Palmerston.....	Washington,	February 23, 1839.	18
	Inclosures.			
	1. Major-General Sir John Harvey to Mr. Fox	Fredericton,	February 13, —	19
	2. Proclamation by the Lieutenant-Governor of New Brunswick .....	Fredericton,	February 13, —	19
	3. The Authorities of Woodstock to Major-General Sir John Harvey .....	Woodstock,	February 12, —	20
	4. Mr. Fox to Mr. Forsyth .....	Washington,	February 23, —	20
5.	Mr. Fox to Viscount Palmerston .....	Washington,	March 7, —	21
	Inclosures.			
	1. Mr. Forsyth to Mr. Fox .....	Washington,	February 25, —	24
	2. Mr. Fox to Mr. Forsyth .....	Washington,	February 25, —	26
	3. Memorandum.....	Washington,	February 27, —	26
	4. Mr. Fox to Sir John Harvey .....	Washington,	February 27, —	27
	5. Message of the President of the United States.....	Washington,	February 26, —	28
	Inclosures.			
	6. The Governor of Maine to the President of the United States .....	Augusta,	February 18, —	31
	7. Message of the Governor of Maine to the Senate and House of Representatives .....	Augusta,	January 23, —	32
	8. Resolve of the Legislature of Maine...	January 23, —	33	
	9. Message of the Governor of Maine to the House of Representatives.....	February 15, —	34	
	10. Resolve of the Legislature of Maine...	February 16, —	35	
	11. Message of the Governor of Maine to the House of Representatives.....	Augusta,	February 8, —	35
	12. Resolves of the Legislature of Maine...	February 18, —	37	
	13. Proclamation by Sir John Harvey ....	Fredericton,	February 13, —	38
	14. Sir John Harvey to the Governor of Maine .....	Fredericton,	February 13, —	38
	15. The Governor of Maine to the President of the United States. ....	Augusta,	February 19, —	39
	16. The Governor of Maine to Sir John Harvey.....	Augusta.	February 19, —	39
	17. Resolve of the Legislature of Maine ..	February 18, —	40	
	18. The Secretary of State to the Governor of Maine.....	Washington,	February 26, —	41
	19. Mr. Fox to Mr. Forsyth .....	Washington,	February 23, —	42
	20. Mr. Forsyth to Mr. Fox .....	Washington,	February 25, —	42
	21. Mr. Fox to Mr. Forsyth .....	Washington,	February 25, —	42
	22. Message of the Governor of Maine to the House of Representatives.....	February 21, —	42	
	23. Sir John Harvey to the Governor of Maine .....	Fredericton,	February 18, —	43
	24. Sir John Harvey to Messrs. Mc Intire, Cushman, Bartlett and Webster....	Fredericton,	February 18, —	44
	25. The Governor of Maine to Sir John Harvey.....	Augusta,	February 21, —	44
	26. Mr. Street to Mr. Jarvis .....	Aroostook River,	February 17, —	44
	27. Mr. Jarvis to Mr. Street .....	Aroostook River,	February 19, —	45
	28. Extract of Report by Land Agent of Maine .....	January 1, —	46	
	29. Report of Colonel Webster to the Land Agent of Maine .....	Orono,	May 7, 1838	48

No.

5. Inclosures.				
30. Message of the President of the United States to the House of Representatives	Washington,	February 27, 1839	51	
31. The Governor of Maine to the President of the United States	Augusta,	February 22, —	51	
32. Sir John Harvey to the Governor of Maine	Fredericton,	February 18, —	51	
33. The Governor of Maine to Sir John Harvey	Augusta,	February 21, —	52	
34. The Solicitor-General of New Brunswick to the officer in command of the Disputed Territory	Fredericton,	February 17, —	52	
35. The Land Agent of Maine to the Solicitor-General of New Brunswick	Confluence of the St. Croix,	February 19, —	52	
36. Sir John Harvey to Messrs. McIntire, Cushman, Bartlett and Webster	Fredericton,	February 18, —	52	
37. Message of the Governor of Maine to the House of Representatives		February 21, —	52	
38. Memorandum	Washington,	February 27, —	53	
39. Resolutions of the Senate of the United States		February 28, —	53	
40. Report of the House of Representatives			54	
41. Law for the defence of the United States		March 3, —	58	
6. Viscount Palmerston to Mr. Fox	Foreign Office,	April 6, —	59	
7. Viscount Palmerston to Mr. Fox	Foreign Office,	April 6, —	60	
Inclosures.				
1. Mr. Stevenson to Viscount Palmerston	Portland Place,	March 30, —	60	
2. Viscount Palmerston to Mr. Stevenson	Foreign Office,	April 3, —	62	
3. Mr. Stevenson to Viscount Palmerston	Portland Place,	April 4, —	63	
8. Viscount Palmerston to Mr. Fox	Foreign Office,	April 6, —	64	
Inclosure.				
1. Viscount Palmerston to Mr. Stevenson	Stanhope Street,	April 3, —	65	
9. Viscount Palmerston to Mr. Fox	Foreign Office,	April 6, —	66	
Inclosure.				
1. Draft of Convention between Great Britain and the United States of America			67	
10. Mr. Fox to Viscount Palmerston	Washington,	March 10, —	71	
Inclosure.				
1. Remarks of Mr. Biddle on the subject of the North-Eastern Boundary		March 1, —	71	
11. Mr. Fox to Viscount Palmerston	Washington,	March 17, —	77	
12. Mr. Fox to Viscount Palmerston	Washington,	March 23, —	78	
Inclosures.				
1. Major-General Sir John Harvey to Mr. Fox	Fredericton,	March 6, —	78	
2. Major-General Sir John Harvey to the Governor of Maine	Fredericton,	March 7, —	79	
3. Resolution of a Committee of the Legislature of the State of Maine		March 15, —	79	
13. Mr. Fox to Viscount Palmerston	Washington,	March 31, —	79	
14. Viscount Palmerston to Mr. Fox	Foreign Office,	May 1, —	80	
15. Mr. Fox to Viscount Palmerston	Washington,	April 20, —	80	
Inclosures.				
1. Major-General Scott to Major-General Sir John Harvey	Augusta,	March 21, —	81	
2. Major-General Scott to the Hon. J. R. Poinsett	Augusta,	March 26, —	82	
3. Major-General Sir John Harvey to Major-General Scott	Fredericton,	March 23, —	83	
16. Mr. Fox to Viscount Palmerston	Washington,	May 16, —	83	
17. Mr. Fox to Viscount Palmerston	Washington,	May 16, —	83	
Inclosures.				
1. Mr. Fox to Mr. Forsyth	Washington,	May 10, —	84	
2. Mr. Forsyth to Mr. Fox	Washington,	May 15, —	84	
18. Mr. Palmerston to Mr. Fox	Foreign Office,	July 9, —	85	
Inclosure.				
1. Viscount Palmerston to Colonel Mudge and Mr. Featherstonhaugh	Foreign Office,	July 9, —	87	
19. Mr. Fox to Viscount Palmerston	Washington,	July 4, —	87	
20. Mr. Fox to Viscount Palmerston	Washington,	July 30, —	88	
Inclosures.				
1. Mr. Fox to Aaron Vail, Esq.	Washington,	July 30, —	87	
2. Viscount Palmerston to Mr. Fox	Foreign Office,	July 9, —	88	
21. Mr. Fox to Viscount Palmerston	Washington,	August 4, —	88	
Inclosures.				
1. Mr. Forsyth to Mr. Fox	Albany,	July 29, —	88	
2. Mr. Forsyth to Mr. Fox	Albany,	July 29, —	89	
3. Counter-Project of Convention between Great Britain and the United States of America			90	



No.				Page
22.	Viscount Palmerston to Mr. Fox.....	Foreign Office, October	14, 1839,	94
23.	Viscount Palmerston to Mr. Fox.....	Foreign Office, November	2, —	94
	Inclosure.			
	1. Memorandum for the Warden of the Disputed Territory .....	Fredericton,	August 30, —	94
24.	Viscount Palmerston to Mr. Fox.....	Foreign Office, November	2, —	96
	Inclosure.			
	1. Colonel Mudge and Mr. Featherstonhaugh to Viscount Palmerston .....	Great Falls,	September 4, —	96
25.	Mr. Fox to Viscount Palmerston.....	Washington,	September 25, —	96
	Inclosure.			
	1. Mr. Vail to Mr. Fox .....	Washington,	August 19, —	96
26.	Colonel Mudge and Mr. Featherstonhaugh to Viscount Palmerston .....	Quebec,	October 22, —	97
27.	Mr. Fox to Viscount Palmerston.....	Washington,	November 13, —	98
	Inclosure.			
	1. Mr. Fox to Mr. Forsyth .....	Washington,	November 2, —	98
	2. Mr. Vail to Mr. Fox.....	Washington,	November 5, —	100
28.	Mr. Fox to Viscount Palmerston.....	Washington,	January 11, 1840,	100
	Inclosures.			
	1. Extract from the Message of the President of the United States to both Houses of Congress .....		December 2, 1839,	102
	2. Extract from the Message of Governor Fairfield, to both branches of the Legislature of Maine .....		January , 1840,	103
	3. Mr. Forsyth to Mr. Fox .....	Washington,	December 24, 1839,	105
	4. Major-General Sir John Harvey to Mr. Fox .....	Fredericton,	December 19, —	107
	5. The Governor of Maine to Major-General Sir John Harvey .....	Saco,	December 12, —	107
	6. Major-General Sir John Harvey to the Governor of Maine .....	Fredericton,	December 19, —	108
29.	Viscount Palmerston to Mr. Fox.....	Foreign Office, February	19, 1840,	108
	Inclosures.			
	1. J. Stephen, Esq., to J. Backhouse, Esq. . .	Downing Street,	February 15, —	109
	2. Lieutenant-General Sir R. Jackson to Lord John Russell. ....	Montreal,	January 16, —	109
	3. Extract from the Message of the Governor of Maine .....		January 3, —	110
30.	Mr. Fox to Viscount Palmerston.....	Washington,	March 17, —	111
	Inclosures.			
	1. Mr. Fox to Mr. Forsyth .....	Washington,	January 12, —	113
	2. Mr. Forsyth to Mr. Fox .....	Washington,	January 16, —	114
	3. Mr. Fox to Mr. Forsyth .....	Washington,	January 26, —	116
	4. Mr. Forsyth to Mr. Fox .....	Washington,	January 28, —	117
	5. Mr. Forsyth to Mr. Fox .....	Washington,	February 26, —	118
	6. Deposition of Mr. Varnum in relation to the movements of British Troops within the Disputed Territory .....	Augusta,	February 11, —	119
	7. Deposition of Mr. Mark Little .....	Bangor,	February 13, —	119
	8. Deposition of Mr. Thomas Bartlett.....	Penobscot,	February 10, —	120
	9. Mr. Forsyth to Mr. Fox .....	Washington,	March 6, —	121
	10. Report to the Governor of Maine .....	Augusta,	February 27, —	122
	11. Mr. Fox to Mr. Forsyth .....	Washington,	March 7, —	123
	12. Mr. Fox to Mr. Forsyth.....	Washington,	March 13, —	124
	13. Message from the President of the United States.....	Washington,	January 22, —	125
	14. Mr. Forsyth to the President of the United States.....	Washington,	January 22, —	125
	15. Mr. Stevenson to Mr. Forsyth.....	London,	May 5, 1838	126
	16. Viscount Palmerston to Mr. Stevenson .....	Foreign Office, April	16, —	126
	17. Mr. Stevenson to Viscount Palmerston .....	Portland Place, April	21, —	126
	18. Mr. Stevenson to Mr. Forsyth.....	London,	March 6, —	126
	19. Mr. Stevenson to Viscount Palmerston .....	Portland Place, February	26, —	126
	20. Mr. Stevenson to Mr. Forsyth .....	London,	March 26, —	127
	21. Viscount Palmerston to Mr. Stevenson .....	Foreign Office, March	12, —	127
	22. Mr. Stevenson to Viscount Palmerston .....	Portland Place, March	20, —	127
	23. Mr. Forsyth to Mr. Stevenson.....	Washington,	March 6, 1839	127
	24. Mr. Stevenson to Mr. Forsyth.....	London,	April 5, —	128
	25. Mr. Stevenson to Viscount Palmerston .....	Portland Place, March	30, —	131
	26. Viscount Palmerston to Mr. Stevenson .....	Foreign Office, April	3, —	131
	27. Mr. Stevenson to Viscount Palmerston .....	London,	April 4, —	131
	28. The Governor of Maine to the President of the United States.....	Augusta,	February 27, —	131
	29. Message of the Governor of Maine to the Senate & H. of Representatives .....		January 23, —	131
	30. Mr. Hamlin to the Governor and Council of Maine.....	Augusta,	January 22, —	132
	31. Mr. Hamlin and Mr. Coffin to Mr. Buckmore.....	Bangor,	December 14, 1838	132

## LIST OF PAPERS.

5

No. 30	Inclosures.			Page
32.	Mr. Buckmore to Mr. Hamlin.....	Augusta,	January 22, 1839	132
33.	Resolve of the Legislature of Maine..		January 21, —	134
34.	Message of the Governor of Maine to the House of Representatives..		February 15, —	134
35.	Resolve of the Legislature of Maine..		February 16, —	134
36.	Instructions from the Governor of Maine to Mr. Rogers .....	Augusta,	February 15, —	134
37.	Governor Fairfield to Sir John Harvey	Augusta,	February 15, —	135
38.	Instructions from the Governor of Maine to Mr. Jarvis .....	Augusta,	February 15, —	135
39.	Message of the Governor of Maine ..	Augusta,	February 15, —	136
40.	Sir John Harvey to the Governor of Maine.....	Fredericton,	February 13, —	136
41.	Proclamation by Sir John Harvey ...	Fredericton,	February 13, —	136
42.	Resolves of the Legislature of Maine.		February 20, 22, —	136
43.	Order of the House of Representatives of Maine.....		February 18, —	136
44.	Order of the House of Representatives of Maine.....		February 20, —	136
45.	Message of the Governor of Maine to the House of Representatives ....		February 20, —	137
46.	Governor Fairfield to Sir John Harvey	Augusta,	February 19, —	137
47.	Message of the Governor of Maine to the House of Representatives ..		February 21, —	137
48.	Sir John Harvey to Governor Fairfield	Fredericton,	February 18, —	137
49.	Sir John Harvey to Messrs. Mc Intire, Cushman, Bartlett and Webster...	Fredericton,	February 18, —	137
50.	Governor Fairfield to Sir John Harvey	Augusta,	February 21, —	137
51.	Mr. Street to Mr. Jarvis .....	Mouth of the Aroostook,	February 17, —	138
52.	Mr. Jarvis to Mr. Street .....	Aroostook River,	February 19, —	138
53.	The Governor of Maine to the Pre- sident of the United States .....	Augusta,	February 18, —	138
54.	The Governor of Maine to the Presi- dent of the United States .....	Augusta,	February 19, —	138
55.	The Governor of Maine to the Presi- dent of the United States .....	Augusta,	February 22, —	138
56.	The Clerk of the House of Represen- tatives of Maine to the President of the United States.....	Augusta,	March 23, —	138
57.	Resolve of the State of Maine.....		March 22, —	139
58.	The Secretary of the United States to the Governor of Maine.....	Washington,	April 2, —	139
59.	The Secretary of State of the United States to the Governor of Maine..	Washington,	April 4, —	139
60.	The Acting Secretary of State to the Governor of Maine .....		November 6, —	139
61.	The Governor of Maine to the Acting Secretary of State.....	Saco,	November 21, —	140
62.	The Governor of Maine to the Presi- dent of the United States .....	Augusta,	December 23, —	143
63.	The Governor of Maine to Sir John Harvey.....	Saco,	December 12, —	144
64.	Sir John Harvey to the Governor of Maine .....	Fredericton,	December 19, —	144
65.	Mr. Forsyth to the Governor of Maine	Washington,	January 2, 1840	144
66.	Mr. Fox to the Acting Secretary of State	Washington,	July 30, 1839	145
67.	Viscount Palmerston to Mr. Fox.....	Foreign Office,	July 9, —	145
68.	The Acting Secretary of State to Mr. Fox	Washington,	August 19, —	145
69.	Mr. Fox to Mr. Forsyth .....	Washington,	November 2, —	145
70.	Mr. Forsyth to Mr. Fox .....	Washington,	December 24, —	145
71.	Mr. Fox to Mr. Forsyth ..	Washington,	January 12, 1840	146
72.	Mr. Forsyth to Mr. Fox .....	Washington,	January 16, —	146
73.	Mr. Poinsett to the President of the United States.....	Washington,	January 22, —	146
74.	Message of the President of the United States .....	Washington,	January 29, —	146
75.	Mr. Fox to Mr. Forsyth.....	Washington,	January 26, —	147
76.	Mr. Forsyth to Mr. Fox .....	Washington,	January 28, —	147
77.	Message of the President of the United States .....	Washington,	March 9, —	147
78.	The Governor of Maine to the Presi- dent of the United States .....	Augusta,	February 15, —	147
79.	Report to the Governor of Maine ....	Augusta,	February 27, —	148
80.	Resolutions of the Legislature of Maine upon the Question of the Boundary..		March 5, —	148
31.	Viscount Palmerston to Mr. Fox.....	Foreign Office,	April 14, —	149
32.	Mr. Fox to Viscount Palmerston.....	Washington,	March 30, —	149
	Inclosures.			
	1. Mr. Forsyth to Mr. Fox .....	Washington,	March 25, —	151
	2. Mr. Fox to Mr. Forsyth .....	Washington,	March 26, —	154



No.			Page
33.	Viscount Palmerston to Mr. Fox.....	Foreign Office, April	30, 1840. 154
34.	Mr. Fox to Viscount Palmerston.....	Washington, April	17, — 155
	Inclosure.		
	1. Resolutions of the Maine Legislature....	March	18, — 155
35.	Mr. Fox to Viscount Palmerston.....	Washington, May	7, — 156
	Inclosures.		
	1. Mr. Fox to Sir John Harvey .....	Washington, March	28, — 156
	2. Sir John Harvey to Mr. Fox .....	Fredericton, April	16, — 157
	3. Memorandum on the limits of the Mada- waska Settlements. ....		159
36.	Mr. Fox to Viscount Palmerston.....	Washington, May	28, — 160

*Correspondence between the Colonial Office and Her Majesty's Provincial  
Authorities in North America.*

No.			Page
1.	Sir John Harvey to Lord Glenelg .....	Fredericton, February	24, 1839 161
2.	Sir John Harvey to Lord Glenelg .....	Fredericton, February	26, — 162
	Inclosures.		
	1. Mr. Sherwood to Captain S. Tryon ....	Portland, February	18, — 162
	2. Mr. Sherwood to Captain S. Tryon ....	Portland, February	19, — 163
3.	Sir John Harvey to Lord Glenelg .....	Fredericton, March	23, — 163
	Inclosures.		
	1. General Scott to Sir J. Harvey .....	Augusta, March	21, — 164
	2. General Scott to Sir J. Harvey .....	Augusta, March	21, — 165
4.	Sir John Harvey to Lord Glenelg .....	Fredericton, March	27, — 166
	Inclosures.		
	1. Major-General Scott to Sir J. Harvey ..	Augusta, March	21, — 167
	2. General Order of the State of Maine ..	Augusta, March	25, — 167
5.	The Marquis of Normanby to Sir John Harvey ..	Downing Street, May	16, — 168

# CORRESPONDENCE

RELATING TO THE

## NORTH AMERICAN BOUNDARY.

*In continuation of the Correspondence presented to both Houses of Parliament, by Command of Her Majesty, in 1838.*

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### No. 1.

*Mr. Fox to Viscount Palmerston.—(Received March 8, 1838.)*

(Extract.)

*Washington, February 13, 1838.*

IT is probable that some weeks will elapse before a definitive answer is returned by the United States Government, to the official communication upon the question of the north-eastern Boundary, which I addressed to the Secretary of State, in conformity with the instructions contained in your Lordship's despatch of the 19th of November, 1837. Consultation and correspondence will be held between the Federal Government and the State Government of Maine, before a final decision can be taken by the President, upon the offer submitted to him by Her Majesty's Government. Mr. Forsyth has, in the mean time, addressed to me two papers upon certain points of the question adverted to in the notes, which by your Lordship's orders I presented to him. I shall have the honour to transmit copies of these papers to your Lordship by the Messenger Kraus, whom I propose to dispatch to England at the latter end of this month.

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### No. 2.

*Mr. Fox to Viscount Palmerston.—(Received May 16, 1838.)*

(Extract.)

*Washington, April 5, 1838.*

THE United States Secretary of State has not yet addressed to me any definite reply to the official note, which, in pursuance of your Lordship's instructions, I presented to him on the 10th of January last, upon the question of the north-eastern Boundary.

The delay is occasioned by the reference which has been made to the State of Maine. But I expect, that in a short time I shall receive an official communication from Mr Forsyth upon the subject.

Waiting the final reply of the United States Government, I have the honour to inclose, in this despatch, copies of two notes from Mr. Forsyth, upon divers points of the dispute referred to in the communications, which, by your Lordship's directions, I addressed to him in January last. I also inclose copies of my official notes to Mr. Forsyth, which, with the exception of the opening paragraphs, are literal transcripts of your Lordship's instructions.



Inclosure 1 in No. 2.

*Mr. Fox to Mr. Forsyth.*

*Washington, January 10, 1838.*

THE Undersigned, Her Britannic Majesty's Envoy Extraordinary, and Minister Plenipotentiary, has received the orders of his Government to make the following communication to the Secretary of State of the United States, with reference to the negotiation pending between the two Governments upon the question of the north-east Boundary.

The Undersigned is, in the first place, directed to express to Mr. Forsyth the sincere regret of Her Majesty's Government, that the long-continued endeavours of both parties to come to a settlement of this important matter have hitherto been unavailing. Her Majesty's Government feel an undiminished desire to co-operate with the Cabinet of Washington, for the attainment of an object of so much mutual interest; and they have learned, with great satisfaction, that their sentiments on this point are fully shared by the actual President of the United States.

The communications which, during the last few years, have taken place upon this subject between the two Governments, if they have not led to a solution of the questions at issue, have at least narrowed the field of future discussion.

Both Governments have agreed to consider the award of the King of the Netherlands as binding upon neither party, and the two Governments, therefore, are as free, in this respect, as they were before the reference to that Sovereign was made; the British Government, despairing of the possibility of drawing a line that shall be in literal conformity with the words of the Treaty of 1783, has suggested that a conventional line should be substituted for the line described in the Treaty, and has proposed, that, in accordance with the principles of equity, and in pursuance of the general practice of mankind in similar cases, the object of difference should be equally divided between the two differing parties, each of whom is alike convinced of the justice of his claim.

The United States Government has replied, that to such an arrangement it has no power to agree; that until the line of the Treaty shall have been otherwise determined, the State of Maine will continue to assume that the line which it claims is the true line of 1783; and will assert, that all the land up to that line is territory of Maine; that, consequently, such a division of the disputed territory as is proposed by Great Britain, would be considered by Maine as tantamount to a cession of what that State regards as part of its own territory; and that the Central Government has no power to agree to such an arrangement, without the consent of the State concerned.

Her Majesty's Government exceedingly regret that such an obstacle should exist to prevent that settlement, which, under all the circumstances of the case, appears to be the simplest, the readiest, the most satisfactory, and the most just. Nor can Her Majesty's Government admit that the objection of the State of Maine is well founded, for the principle upon which that objection rests is as good for Great Britain as it is for Maine. If Maine thinks herself entitled to contend that, until the true line described in the Treaty is determined, the Boundary claimed by Maine must be regarded as the right one; Great Britain is surely still more entitled to insist upon a similar pretension, and to assert that, until the line of the Treaty shall be established to the satisfaction of both parties, the whole of the disputed territory ought to be considered as belonging to the British Crown, because Great Britain is the original possessor, and all the territory which has not been proved to have been, by Treaty, ceded by her, must be looked upon as belonging to her still. But the very existence of such conflicting pretensions seems to point out the expediency of a compromise; and what compromise can be more fair than that which would give to each party one-half of the subject-matter in dispute?

A conventional line, different from that described in the Treaty, was agreed to, as stated by Mr. Forsyth, in his note of the 28th of April, 1835, with respect to the boundary westward from the Lake of the Woods; why should such a line

not be agreed to likewise for the boundary eastward from the River Connecticut?

Her Majesty's Government cannot refrain from again pressing this proposition upon the serious consideration of the Government of the United States, as the arrangement which would be best calculated to effect a prompt and satisfactory settlement between the two parties.

The Government of the United States, indeed, while it expressed a doubt of its being able to obtain the assent of Maine to the above-mentioned proposal, did, nevertheless, express its readiness to apply to the State of Maine, for the assent of that State to the adoption of another conventional line, which should make the River St. John from its source to its mouth the boundary between the two countries. But it is difficult to understand upon what grounds an expectation would have been formed, that such a proposition could be entertained by the British Government.

For such an arrangement would give to the United States even greater advantages than they would obtain, by an unconditional acquiescence in their claim to the whole of the disputed territory; because such an arrangement would, in the first place, give to Maine all that part of the disputed territory which lies to the south of the St. John, and would, in the next place, in exchange for the remaining part of the disputed territory which lies to the north of the St. John, add to the State of Maine a large district of New Brunswick, lying between the United States Boundary and the southern part of the course of the St. John, a district smaller, indeed, in extent, but much more considerable in value, than the portion of the disputed territory which lies to the north of the St. John.

But with respect to a conventional line generally, the Government of Washington has stated, that it has not at present the powers constitutionally requisite for treating for such a line, and has no hopes of obtaining such powers, until the impossibility of establishing the line described by the Treaty shall have been more completely demonstrated by the failure of another attempt to trace that line by a local survey.

Under these circumstances, it appears that a conventional line cannot be at present agreed upon, and that that mode of settlement is, in the existing state of the negotiation, impossible.

Thus, then, the award of the King of the Netherlands has been abandoned by both parties, in consequence of its rejection by the American Senate; and a negotiation between the two Governments for a conventional line, suited to the interests and convenience of the two parties has for the present been rendered impossible, by difficulties arising on the part of the United States; and both Governments are averse to a new arbitration. In this state of things, the Government of the United States has proposed to the British Cabinet that another attempt should be made to trace out a boundary, according to the letter of the Treaty, and that a Commission of Exploration and Survey should be appointed for that purpose.

Her Majesty's Government have little expectation that such a Commission could lead to any useful result; and on that account, would be disposed to object to the measure; but at the same time, they are so unwilling to reject the only plan now left, which seems to offer a chance of any further advance in this long-pending matter, that they will not withhold their consent to such a Commission, if the principle upon which it is to proceed can be satisfactorily settled.

The United States Government have proposed two modes in which such a Commission might be constituted; first, that it might consist of Commissioners, named in equal numbers by each of the two Governments, with an umpire to be named by some friendly European Power; secondly, that it might be entirely composed of scientific Europeans to be selected by a friendly Sovereign, and might be accompanied in its operations by agents of the two different parties, in order that such agents might give to the Commissioners assistance and information.

If such a Commission were to be appointed, Her Majesty's Government think that the first of the two modes of constructing it would be the best; and that it should consist of members chosen in equal numbers, by each of the two Governments. It might, however, be better that the umpire should be selected by the members of the Commission themselves, rather than that the two Governments should apply to a third Power to make such a choice.

The object of this Commission, as understood by Her Majesty's Government,



would be to explore the disputed territory, in order to find, within its limits, dividing highlands which may answer the description of the Treaty; the search to be first made in the due north line, from the monument at the head of the Ste. Croix; and if no such highlands should be found in that meridian, the search to be then continued to the westward thereof; and Her Majesty's Government have stated their opinion, that, in order to avoid all fruitless disputes, as to the character of such highlands, the Commissioners should be instructed to look for highlands which both parties might acknowledge, as fulfilling the conditions required by the Treaty.

Mr. Forsyth in his note of the 5th of March, 1836, expresses a wish to know how the report of the Commission would, according to the views of Her Majesty's Government, be likely, when rendered, to lead to an ultimate settlement of the question of boundary between the two Governments?

In reply to this inquiry, Her Majesty's Government would beg to observe, that the proposal to appoint a Commission originated not with them, but with the Government of the United States: and that it is rather for the Government of the United States than for that of Great Britain, to answer this question.

Her Majesty's Government have themselves already stated, that they have little expectation that such a Commission could lead to any useful result; and they would on that account be disposed to object to it; and if Her Majesty's Government were now to agree to appoint such a Commission, it would be only in compliance with the desire so strongly expressed by the Government of the United States, and in spite of doubts which Her Majesty's Government still continue to entertain of the efficacy of the measure.

But with respect to the way in which the report of the Commission might be expected to lead to an ultimate settlement of the question, Her Majesty's Government in the first place, conceive that it was meant by the Government of the United States, that if the Commission should discover highlands answering to the description of the Treaty, a connecting line drawn from those highlands to the head of the St. Croix should be deemed to be a portion of the boundary line between the two countries. But Her Majesty's Government would further beg to refer Mr. Forsyth to the notes of Mr. Maclane of 5th June, 1833, and of the 11th and 28th of March, 1834, on this subject; in which it will be seen that the Government of the United States appears to have contemplated as one of the possible results of the proposed Commission of Exploration, that such additional information might possibly be obtained respecting the features of the country, in the district to which the Treaty relates, as might remove all doubt as to the impracticability of laying down a boundary in strict accordance with the letter of the Treaty.

And if the investigations of the proposed Commission should show that there is no reasonable prospect of finding a line strictly conformable with the description contained in the Treaty of 1783, the constitutional difficulties which now prevent the United States from agreeing to a conventional line, may possibly be removed, and the way may thus be prepared for the satisfactory settlement of the difference, by an equitable division of the disputed territory.

But if the two Governments should agree to the appointment of such a Commission, it would be necessary that their agreement should first be recorded in a Convention and it would obviously be indispensable that the State of Maine should be an assenting party to the arrangement.

The Undersigned avails, &c.,

(Signed) HENRY S. FOX.

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Inclosure 2 in No. 2.

*Mr. Fox to Mr. Forsyth.*

*Washington, January 10, 1838.*

THE Undersigned, Her Britannic Majesty's Envoy Extraordinary and Minister Plenipotentiary, is directed by his Government to make the following observations to Mr. Forsyth, Secretary of State of the United States, with reference to certain points connected with the question of the north-eastern Boun-

dary, which question forms the subject of the accompanying official note, which the Undersigned has the honour this day to address to Mr. Forsyth.

Her Majesty's Government with a view to prevail upon that of the United States to come to an understanding with that of Great Britain upon the river question, had stated, that the King of the Netherlands in his award had decided that question according to the British interpretation of it, and had expressed his opinion, that the rivers which fall into the Bay of Fundy are not to be considered as Atlantic rivers for the purposes of this Treaty.

Mr. Forsyth, however, in his note of the 28th of April, 1835, controverts this assertion, and maintains that the King of the Netherlands did not in his award express such an opinion; and Mr. Forsyth quotes a passage from the award, in support of this proposition.

But it appears to Her Majesty's Government, that Mr. Forsyth has not correctly apprehended the meaning of the passage which he quotes; for in the passage in question, Mr. Forsyth supposes that the word *alone* is governed by the word *include*, whereas an attentive examination of the context will show that the word *alone* is governed by the verb *divide*; and that the real meaning of the passage is, that the rivers flowing north and south from the Highlands, claimed by the United States may be arranged into two genera; the first genus comprehending the rivers which fall into the St. Lawrence: the second genus comprehending those whose waters, in some manner or other, find their way into the Atlantic; but that even if, according to this general qualification, and in contradistinction from rivers flowing into the St. Lawrence, the rivers which fall into the Bays of Fundy and Chaleurs might be comprised in the same genus with the rivers which fall directly into the Atlantic, still the St. John and Restigouche form a distinct species by themselves, and do not belong to the species of rivers which fall into the Atlantic; for the St. John and Restigouche are not divided in company with any such last mentioned rivers; and the award goes on to say, that, moreover, if this distinction between these two species were confounded, an erroneous interpretation would be applied to a Treaty in which every separate word must be supposed to have a meaning; and a generic distinction would be given to cases which are purely specific.

The above appears to be the true meaning of the passage quoted by Mr. Forsyth; but if that passage had not been in itself sufficiently explicit, which Her Majesty's Government think it is, the passage which immediately follows it, would remove all doubt as to what the opinion of the King of the Netherlands was upon the River Question; for that passage setting forth reasons against the Boundary claimed by the United States, goes on to say, that such line would not even separate the St. Lawrence Rivers immediately from the St. John and Restigouche; and that thus the rivers which this line would separate from the St. Lawrence Rivers, would need, *in order to reach the Atlantic*, the aid of two intermediaries—first, the Rivers St. John and Restigouche, and *secondly, the Bays of Chaleurs and Fundy*.

Now, it is evident from this passage, that the King of the Netherlands deemed the Bays of Chaleurs and Fundy to be, for the purposes of the Treaty, as distinct and separate from the Atlantic Ocean, as are the Rivers St. John and Restigouche; for he specifically mentions those rivers and those bays, as the channels through which certain rivers would have to pass on their way from the northern range of dividing Highlands down to the Atlantic Ocean; and it is clear that he considers that the waters of those Highlands' rivers would not reach the Atlantic Ocean until after they had travelled through the whole extent either of the Restigouche and Bay of Chaleurs, or of the St. John and Bay of Fundy, as the case might be; and for this reason, among others, the King of the Netherlands declared it to be his opinion, that the line north of the St. John, claimed by the United States, is not the line intended by the Treaty.

The Undersigned, &c.,

(Signed)

HENRY S. FOX.



Inclosure 3 in No. 2.

*Mr. Forsyth to Mr. Fox.**Department of State,  
Washington, February 7, 1838.*

THE Undersigned, Secretary of State, has the honour to acknowledge the receipt of the note addressed to him on the 10th ultimo, by Mr. Fox, Her Britannic Majesty's Envoy Extraordinary, and Minister Plenipotentiary at Washington, with regard to the question pending between the two Governments upon the subject of the north-eastern Boundary, and to inform him that his communication has been submitted to the President. It has received from him the attentive examination due to a paper expected to embody the views of Her Majesty's Government, in reference to interests of primary importance to the two countries. But while the President sees with satisfaction the expression it contains of a continued desire on the part of Her Majesty's Government to co-operate with this, in its earnest endeavours to arrange the matter of dispute between them, he perceives with feelings of deep disappointment, that the answer now presented to the propositions made by this Government with the view of effecting that object, after having been so long delayed, notwithstanding the repeated intimations that it was looked for here with much anxiety, is so indefinite in its terms, as to render it impracticable to ascertain, without further discussion, what are the real wishes and intentions of Her Majesty's Government respecting the proposed appointment of a Commission of Exploration and Survey, to trace out a boundary according to the letter of the Treaty of 1783.

The President, however, for the purpose of placing in the possession of the State of Maine the views of Her Majesty's Government, as exhibited in Mr. Fox's note, and of ascertaining the sense of the State authorities upon the expediency of meeting those views, so far as they are developed therein, has directed the Undersigned to transmit a copy of it to Governor Kent, for their consideration. This will accordingly be done without unnecessary delay, and the result, when obtained, may form the occasion of a further communication to Her Majesty's Minister.

In the mean time, the Undersigned avails himself of the present occasion to offer a few remarks upon certain parts of Mr. Fox's note of the 10th ultimo. After adverting to the suggestion heretofore made by the British Government, that a conventional line, equally dividing the territory in dispute between the two parties, should be substituted for the line described by the Treaty, and regretting the constitutional incompetency of the General Government to agree to such an arrangement, without the consent of the State of Maine; Mr. Fox refers to the Conventional line adopted, although different from that designated by the Treaty, with respect to the boundary westward from the Lake of the Woods, and asks, why should such a line not be agreed to likewise, for the boundary eastward from the River Connecticut? The reply to this question is obvious. The parallel of latitude, adopted on the occasion referred to as a conventional substitute for the Treaty line, passed over territory within the exclusive jurisdiction of the General Government, without touching upon the rights or claims of any individual member of the Union, and the legitimate power of the Government, therefore, to agree to such line was perfect, and unquestioned. Now, in consenting to a conventional line for the boundary eastward from the River Connecticut, the Government of the United States would transcend its constitutional powers, since such a measure could only be carried into effect by violating the jurisdiction of a Sovereign State of the Union, and by assuming to alienate, without the colour of a rightful authority to do so, a portion of the territory claimed by the State.

With regard to the suggestion made by the Undersigned in his note of the 29th of February, 1836, of the readiness of the President to apply to the State of Maine for her assent to the adoption of a conventional line, making the River St. John, from its source to its mouth, the boundary between the United States and the adjacent British Provinces, Mr. Fox thinks that it is difficult to understand upon what grounds an expectation could have been formed, that such a proposal could be entertained by the British Government, since such an arrangement would give the United States even greater advantages than would

be obtained by an unconditional acquiescence in their claim to the whole territory in dispute. In making the suggestions referred to, the Undersigned expressly stated to Mr. Bankhead, that it was offered, as the proposition on the part of Great Britain that led to it was supposed to have been, without regard to the mere question of acres, the extent of territory lost or acquired by the respective parties. The suggestion was submitted in the hope that the preponderating importance of terminating at once, and for ever, this controversy, by establishing an unchangeable, and definite, and indisputable boundary, would be seen and acknowledged by His Majesty's Government, and have a corresponding weight in influencing its decision. That the advantages of substituting a river for a highland boundary could not fail to be recognized, was apparent from the fact, that Mr. Bankhead's note of 28th December, 1835, suggested the River St. John, from the point in which it is intersected by a due north line drawn from the monument at the head of the St. Croix, to the southernmost source of that river, as a part of the general outline of a conventional boundary.

No difficulty was anticipated on the part of His Majesty's Government in understanding the grounds upon which such a proposal was expected to be entertained by it, since the precedent proposition of Mr. Bankhead, just adverted to, although professedly based on the principle of an equal division between the parties, could not be justified by it, as it would have given nearly two-thirds of the disputed territory to Her Majesty's Government. It was, therefore, fairly presumed, that the river line, in the opinion of Great Britain, presented advantages sufficient to counterbalance any loss of territory by either party, that would follow its adoption as a boundary.

Another recommendation of the river line it was supposed would be found by His Majesty's Government in the fact, that whilst by its adoption, the right of jurisdiction alone would have been yielded to the United States, over that portion of New Brunswick, south of the St. John, Great Britain would have acquired the right of soil, as well as of jurisdiction, of the whole portion of the disputed territory, north of the river.

It is to be lamented that the imposing considerations alluded to have failed in their desired effect; that the hopes of the President in regard to them have not been realized; and, consequently, that Her Britannic Majesty's Government is not prepared at present to enter into an arrangement of the existing difference between the two nations upon the basis proposed.

It would seem to the Undersigned, from an expression used in Mr. Fox's late communication, that some misapprehension exists on his part, either as to the object of this Government in asking for information relative to the manner in which the report of a Commission of Exploration and Survey might tend to a practical result in the settlement of the Boundary Question, or as to the distinctive difference between the American proposal for the appointment of such a Commission, and the same proposition when modified to meet the wishes of Her Majesty's Government.

Of the two modes suggested by direction of the President for constituting such a Commission, the first is that which is regarded by Her Majesty's Government, with most favour, viz.: the Commissioners to be chosen in equal numbers by each of the two parties, with an umpire selected by some friendly European Sovereign to decide on all points on which they might disagree; with instructions to explore the disputed territory, in order to find within its limits dividing Highlands answering to the description of the Treaty of 1783, in a due north or north-west direction from the monument at the head of the St. Croix; and that a right line drawn between such Highlands and said monument, should form, so far as it extends, a part of the boundary between the two countries, &c.

It is now intimated, that Her Majesty's Government will not withhold its consent to such a Commission, "if the principle upon which it is to be formed and the manner in which it is to proceed can be satisfactorily settled." This condition is partially explained by the suggestion afterwards made, that instead of leaving the umpire to be chosen by some friendly European Power, it might be better that he should be elected by the Members of the Commission themselves, and a modification is then proposed that "the Commission shall be instructed to look for Highlands, which both parties might acknowledge as fulfilling the conditions of the Treaty."

The American proposition is intended, and if agreed to, will doubtless be successful to decide the question of boundary definitively, by the adoption of the



Highlands reported by the Commission of Survey, and would thus secure the treaty line. The British modification looks to no such object; it merely contemplates a Commission of Boundary analogous to that appointed under the Vth Article of the Treaty of Ghent, and would in all probability prove equally unsatisfactory in practise.

Whether Highlands, such as are described in the Treaty, do or do not exist, it can scarcely be hoped that those called for by the modified instructions could be found. The fact that this question is still pending, although more than half a century has elapsed since the conclusion of the Treaty in which it originated, renders it in the highest degree improbable that the two Governments can unite in believing that either the one or the other of the ranges of Highlands claimed by the respective parties fulfils the required conditions of that instrument. The opinions of the parties have over and over again been expressed on this point, and are well known to differ widely. The Commission can neither reconcile nor change these variant opinions resting on conviction; nor will it be authorized to decide the difference. Under these impressions of the inefficiency of such a Commission was the inquiry made in the letter of the Undersigned of 5th of March, 1836, as to the manner in which the report of the Commission, as proposed to be constituted and instructed by His Majesty's Government, was expected to lead to an ultimate settlement of the question of boundary. The results which the American proposition promised to secure were fully and frankly explained in previous notes from the Department of State; and had its advantages not been clearly understood, this Government would not have devolved upon that of Her Majesty the task of illustrating them. Mr. Fox will therefore see that although the proposal to appoint a Commission had its origin with this Government, the modification of the American proposition, as understood by the Undersigned, was so fundamentally important that it entirely changed its nature; and that the supposition, therefore, that it was rather for the Government of the United States than for that of Great Britain to answer the inquiry referred to, is founded in misapprehension. Any decision made by a Commission, constituted in the manner proposed by the United States, and instructed to seek for the Highlands of the Treaty of 1783, would be binding upon this Government, and could without unnecessary delay be carried into effect; but if the substitute presented by Her Majesty's Government be insisted on, and its principles be adopted, a resort will then be necessary to the State of Maine for her assent to all proceedings hereafter in relation to this matter; since, if any arrangement can be made under it, it can only be for a conventional line to which she must of course be a party.

The Undersigned, in conclusion, is instructed to inform Mr. Fox, that if a negotiation be entertained at all upon the inconclusive and unsatisfactory basis afforded by the British counter-proposition or substitute, which possesses hardly a feature in common with the American proposition, the President will not venture to invite it, unless the authorities of the State of Maine, to whom, as before stated, it will be forthwith submitted, shall think it more likely to lead to a final adjustment of the question of boundary than the General Government deems it to be, though predisposed to see it in its most favourable light.

The Undersigned avails, &c.,

(Signed)

JOHN FORSYTH.

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Inclosure 4 in No. 2.

*Mr. Forsyth to Mr. Fox.*

*Department of State,  
Washington, February 6, 1838.*

THE Undersigned, Secretary of State of the United States, has the honour to acknowledge the receipt of the note of Mr. Fox, Envoy Extraordinary and Minister Plenipotentiary of Her Britannic Majesty, of the 10th ultimo, in which he presents by direction of his Government, certain observations in respect to the construction to be given to that part of the award of the arbiter, on the question of the north-eastern Boundary, which relates to the characters in which the Rivers St. John and Restigouche are to be considered in reference to that question. Sir Charles Vaughan, in his note to Mr. Mc Lane of February 10,

1834, alleged that, although the arbiter had not decided the first of the three main questions proposed to him, yet that he had determined certain subordinate points connected with that question, upon which the parties had entertained different views; and among others, that the Rivers St. John and Restigouche could not be considered, according to the Treaty, as "rivers flowing into the Atlantic."

The Undersigned, in his note to Sir Charles R. Vaughan, of the 28th of April, 1835, questioned the correctness of the interpretation which had been given by Sir Charles to the award of the arbiter in this particular; and after quoting that part of the award to which Sir Charles was supposed to refer, as containing the determination by the arbiter of the point just mentioned, observed, that it could not but appear from further reflection to Sir Charles, that the declaration that the Rivers St. John and Restigouche could not be *alone* taken into view without hazard in determining the disputed boundary, was not the expression of an opinion, that they should be altogether excluded in determining that question; or, in other words, that they could not be looked upon as rivers emptying into the Atlantic. The remarks presented by Mr. Fox in the note, to which this is a reply, are designed to show a misconception on the part of the Undersigned of the true meaning of the passage cited by him from the award, and to support the construction which was given to it by Sir Charles Vaughan; whether the apprehension entertained by the one party or the other of the opinion of the arbiter upon this minor point be correct, is regarded by the Undersigned as a matter of no consequence in the settlement of the Maine question.

The Government of the United States never having acquiesced in the decision of the arbiter, that "the nature of the difference, and the vague and not sufficiently determinate stipulations of 1783, do not permit the adjudication of either of the two lines, respectively claimed by the interested parties, to one of the said parties, without wounding the principles of law and equity with regard to the other," cannot consent to be governed in the prosecution of the existing negotiation by the opinion of the arbiter upon any of the preliminary points, about which there was a previous difference between the parties; and the adverse decision of which has led to so unsatisfactory, and, in the opinion of this Government, so erroneous a conclusion. This determination on the part of the United States, not to adopt the premises of the arbiter, while rejecting his conclusion, has been heretofore made known to Her Majesty's Government; and while it remains, must necessarily render the discussion of what those premises were, unavailing, if not irrelevant.

The few observations which the Undersigned was led to make, in the course of his note to Sir Charles Vaughan, upon one of the points alleged to have been thus determined, were prompted only by a respect for the arbiter, and a consequent anxiety to remove a misinterpretation of his meaning, which alone, it was believed, could induce the supposition, that the arbiter, in searching for the rivers referred to in the Treaty as designating the boundary, could have come to the opinion, that the two great rivers, whose waters pervaded the whole district in which the search was made, and constituted the most striking objects of the country, had been entirely unnoticed by the negotiators of the Treaty, and were to be passed over unheeded in determining the line, while others were to be sought for, which he himself asserts could not be found; that the imputation of such an opinion to the respected arbiter could only be the result of misinterpretation, seemed the more evident, as he had himself declared, that "it could not be sufficiently explained how, if the High Contracting Parties intended, in 1783, to establish the boundary at the south of the River St. John, that river, to which the territory in dispute was in a great measure indebted for its distinctive character, had been neutralized and set aside." It is under the influence of the same motives, that the Undersigned now proceeds to make a brief comment upon the observations contained in Mr. Fox's note of the 10th ultimo, and thus to close a discussion which it can answer no purpose to prolong.

The passage from the award of the arbiter, quoted by the Undersigned in his note of the 28th, April, 1835, to Sir Charles Vaughan, and the true meaning of which Mr. Fox supposes to have been misconceived, is the following—"If, in contradistinction to the rivers that empty themselves into the River St. Lawrence, it had been proper, agreeably to the language ordinarily used in Geography, to comprehend the rivers falling into the Bays of Fundy and Des



Chaleurs, with those emptying themselves directly into the Atlantic Ocean, in the generical denomination of rivers falling into the Atlantic Ocean, it would be hazardous to include into the species belonging to that class, the Rivers St. John and Restigouche, which the line claimed at the north of the River St. John divides *immediately*, from the rivers emptying themselves into the River St. Lawrence, not with other rivers falling into the Atlantic Ocean, but *alone*; and thus to apply, in interpreting the delimitation established by a Treaty, where each word must have a meaning, to two exclusively special cases, and where no mention is made of the genus (*genre*), a generical expression which should ascribe to them a broader meaning," &c.

It was observed by the Undersigned, that this passage did not appear to contain an expression of opinion by the arbiter, that the Rivers St. John and Restigouche should be altogether excluded in determining the question of disputed Boundary; or, in other words, that they could not be looked upon as "rivers emptying into the Atlantic." Mr. Fox alleges this to be a misconception of the meaning of the arbiter, and supposes it to have arisen from an erroneous apprehension by the Undersigned, that the word *alone* is governed by the verb *included*; whereas he thinks that an attentive examination of the context will show that the word *alone* is governed by the verb *divide*, and that the real meaning of the passage is this, "that the rivers flowing north and south from the Highlands claimed by the United States, may be arranged in two genera; the first genus comprehending the rivers which fall into the St. Lawrence; the second genus comprehending those whose waters in some manner or other, find their way into the Atlantic; but that even if, according to the general classification, and in contradistinction from rivers flowing into the St. Lawrence, the rivers which fall directly into the Bays of Fundy and Chaleurs, might be comprised in the same genus with the rivers which fall *directly* into the Atlantic, still the St. John and the Restigouche form a distinct species by themselves, and do not belong to the species of rivers which fall directly into the Atlantic; for the St. John and Restigouche are not divided in company with any such last-mentioned rivers." The Undersigned considers it unnecessary to enter into the question, whether, according to the context, the circumstance expressed by the adverb *alone* has reference to the verb *divide*, or the verb *include*, because, even allowing it to refer to the former, it does not appear to the Undersigned, that his interpretation of the passage is thereby impaired, or that of Mr. Fox sustained. The Undersigned conceives that the arbiter contemplated two different *species* of rivers as admissible into the genus of those which "fall into the Atlantic," to wit, those which fall *directly* into the Atlantic, and those which fall into it *indirectly*. That the arbiter was further of opinion, though at variance with the idea entertained in that respect by the United States, that the Rivers St. John and Restigouche, emptying their waters into the Bays of Fundy and des Chaleurs, did not belong to the species of rivers falling directly into the Atlantic. That, if they were considered *alone*, therefore the appellation of "rivers falling into the Atlantic Ocean," could not be regarded as applicable to them; because to use the language of the award, it would be "applying to two exclusively special cases, where no mention was made of the genus, a generical expression which would ascribe to them a broader meaning"; but it is not conceived that the arbiter intended to express an opinion, that these rivers *might not be included with others* in forming the *genus* of rivers described by the Treaty as those which fall into the Atlantic; and that, upon this ground they should be wholly excluded in determining the question of the disputed Boundary; while, therefore, the Undersigned agrees with Mr. Fox, that the arbiter did not consider these rivers as falling directly into the Atlantic Ocean, the Undersigned cannot concur in Mr. Fox's construction, when he supposes the arbiter to give as a reason for this, that they are not divided in company with any such last mentioned rivers, that is, with rivers falling directly into the Atlantic. Conceding as a point, which it is deemed unnecessary for the present purpose to discuss, that the grammatical construction of the sentence contended for by Mr. Fox is the correct one, the arbiter is understood to say only, that those rivers are not divided *immediately* with others falling into the Atlantic, either directly or indirectly, but he does not allege this to be a sufficient reason for excluding them, when connected with other rivers divided mediately from those emptying into the St. Lawrence, from the genus of rivers "falling into the Atlantic." On the contrary, it is admitted in the award, that the line claimed to

the north of the St. John, divides the St. John and Restigouche in company with Schoodiac Lakes, the Penobscot, and the Kennebec, which are stated as emptying themselves *directly* into the Atlantic; and it is strongly implied in the language used by the arbiter, that the first named rivers might, in his opinion, be classed for the purposes of the Treaty with those last named, though not in the same species, yet in the same genus of Atlantic Rivers.

The reason why the St. John and Restigouche were not permitted to determine the question of Boundary in favour of the United States, is understood to have been, not that they were to be wholly excluded, as rivers not falling into the Atlantic Ocean, as Mr. Fox appears to suppose, but because, in order to include them in that genus of rivers, they must be considered in connection with other rivers which were not divided *immediately* like themselves from the rivers falling into the St. Lawrence, but *mediately* only, which would introduce the principle that the Treaty of 1783, meant Highlands that divide, as well mediately, as immediately, the rivers that empty themselves into the River St. Lawrence from those which fall into the Atlantic Ocean; a principle which the arbiter did not reject as unfounded, or erroneous, but which considered in connection with the other points which he had decided, he regarded as equally *realized by both lines*, and therefore as constituting an equal weight in either scale, and consequently affording him no assistance in determining the dispute between the respective parties.

The arbiter appears to the Undersigned, to have viewed the Rivers St. John and Restigouche as possessing both a specific and a generic character; that considered *alone*, they were specific, and the designation in the Treaty, of "Rivers falling into the Atlantic," was inapplicable to them; that considered *in connection with other rivers*, they were generic, and were embraced in the terms of the Treaty; but that as their connection with other rivers would bring them within a principle, which, according to the views taken by him of other parts of the question, was equally realized by both lines, it would be hazardous to allow them any weight in deciding the disputed Boundary. It has always been contended by this Government, that the Rivers St. John and Restigouche were to be considered in connection with the Penobscot and Kennebec, in determining the Highlands called for by the Treaty; and the arbiter is not understood to deny to them, when thus connected, the character of "rivers falling into the Atlantic Ocean."

This construction of the arbiter's meaning, derived from the general tenour of the context, it will be perceived, is not invalidated by the next succeeding paragraph cited by Mr. Fox, in which the Bays of Fundy and Des Chaleurs are spoken of as *intermediaries*, whereby the rivers flowing into the St. John and Restigouche reach the Atlantic Ocean, inasmuch as such construction admits the opinion of the arbiter to have been, that the St. John and Restigouche do not fall *directly* into the Atlantic, and that they thus constitute a species by themselves, while it denies that they are therefore excluded by the arbiter from the *genus* of "rivers falling into the Atlantic."

The Undersigned avails, &c.,

(Signed)

JOHN FORSYTH.

### No. 3.

*Mr. Fox to Viscount Palmerston.—(Received May 23, 1840.)*

(Extract.)

*Washington, May 4, 1838.*

THE United States Secretary of State addressed to me the inclosed official note on the 27th ultimo, communicating the result of an application made by the Federal Government to the State of Maine, upon the subject of the north-eastern Boundary Line, with reference to the pending proposal for a new Commission of Survey and Exploration; and announcing to me the resolution which the President has formed thereupon. The President, it appears, is willing to enter into an arrangement with Great Britain for the establishment of a joint Commission of Survey and Exploration, upon the basis of the original American proposition, and



of the modifications offered by Her Majesty's Government. Your Lordship will perceive that, in the same note, Mr. Forsyth invited me to a conference, for the purpose of negotiating a convention that should embrace the above object, if I were duly empowered to proceed to such negotiation. I have replied to Mr. Forsyth in a letter which I have also the honour to inclose, that my actual instructions were fulfilled by the delivery of the communication which I addressed to the United States Government on the 10th of January last; that I was not at present provided with full powers for negotiating the proposed convention; but that I would forthwith transmit his official note to your Lordship, in order that such additional instructions might be furnished to me, or such other steps taken as the present situation of the question should appear to Her Majesty's Government to require. I believe that the President transmits instructions, by the present packet, to the American Envoy in London, to confer with your Lordship upon the nature and extent of the powers which it may be expedient to furnish to Her Majesty's Mission in this country.

Your Lordship will perceive that the unreasonable pretensions of Maine are still entertained by the Legislature of Maine, and are recorded in their resolutions of the 23d of March, inclosed in Mr. Forsyth's note to me of the 27th of April. I have stated to Mr. Forsyth, with reference to this part of the subject, that as long as the pretensions of the authorities of Maine, thus to settle the disputed question for themselves, were confined to words and resolutions, it would not, I believed, be the wish or the policy of Her Majesty's Government to take any public notice thereof; as Her Majesty's Government could only treat a national question with the National Government at Washington; but I have distinctly declared my opinion to Mr. Forsyth, that if the local authorities of Maine should attempt, under any circumstances, to act upon the resolutions referred to, such attempt would be repelled by force on the part of Her Majesty's Provincial Government of New Brunswick; and that a hostile collision would be the immediate and inevitable consequence. It is to be observed, moreover, that any such attempt on the part of Maine, as is contemplated in the resolutions, would, in fact, place Maine in a state of rebellion against the United States Government, as well as in a state of hostility against Great Britain.

I have to add that Mr. Forsyth stated to me, in reply to an inquiry which I made to him upon the subject, that he considered the third resolution of the Legislature of Maine, inclosed in his note, to contain, the consent of that State to the establishment of a joint commission, upon the basis agreed to by the President. Mr. Forsyth further states, that for the establishment of a Commission either to run the line according to the Treaty, or to interpret the terms of the Treaty; the powers of the General Government are by the Constitution fully competent; and that it is only in the contingency of a conventional line being adopted, which both parties would allow was not the line prescribed by the Treaty, that the formal consent of Maine must be obtained.

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Inclosure 1 in No. 3.

*Mr. Forsyth to Mr. Fox.*

*Department of State,  
Washington, April 27, 1838.*

THE Undersigned, Secretary of State of the United States, has the honour, by the directions of the President, to communicate to Mr. Fox, Her Britannic Majesty's Envoy Extraordinary and Minister Plenipotentiary, the result of the application of the General Government to the State of Maine, on the subject of the north-eastern Boundary line; and the resolution which the President has formed, after a careful consideration thereof. By the accompanying papers, received from the Executive of Maine, Mr. Fox will perceive, that Maine declines to give a consent to the negotiation for a Conventional Boundary; is disinclined to a reference of the points in dispute to a new arbitration; but is yet firmly persuaded that the line described in the Treaty of 1783 can be found and traced, whenever the Governments of the United States and Great Britain shall proceed

to make the requisite investigations, with a predisposition to effect that very desirable object. Confidently relying, as the President does, upon the assurances frequently repeated by the British Government, of the earnest desire to reach that result, if it is practicable, he has instructed the Undersigned to announce to Mr. Fox, the willingness of this Government to enter into an arrangement with Great Britain, for the establishment of a joint Commission of Survey and Exploration, upon the basis of the original American proposition and the modifications offered by Her Majesty's Government. The Secretary of State is therefore authorized to invite Mr. Fox to a conference upon the subject, at as early a day as his convenience will permit; and the Undersigned will be immediately furnished with a requisite full power by the President, to conclude a Convention embracing that object, if Her Majesty's Minister is duly empowered to proceed to the negotiation of it on the part of Great Britain.

The Undersigned avails himself, &c.

(Signed)

JOHN FORSYTH.

Inclosure 2 in No. 3.

*Governor Kent's Message to the Maine Legislature.*

To the Senate and House of Representatives;

I HEREWITH communicate, for your consideration, a communication addressed to me by the Secretary of States of the United States, with the correspondence therein referred to, in reference to the north-eastern Boundary. This communication is made by request of the President of the United States; and in compliance with his suggestion, I ask your careful and deliberate attention to the facts and propositions therein contained. The duty devolving upon me would, perhaps, be performed by the simple communication of these documents, without any remarks or comments of my own. But this subject, always interesting to Maine, has become more so by this direct application on the part of the President of the United States, for the expression of the wishes and the will of this State, in reference to the adjustment of this long pending question; and feeling a deep interest, personally and officially, in everything that relates to it, and anxious, mainly, that the rights and honour of Maine should not be jeopardized or impaired, I feel it to be a duty which I owe to the people, who have assigned me my part of responsibility, to speak my honest opinions and views, plainly and unreservedly, upon the grave matters now submitted to you. I ask for my views no other weight or influence than such as their intrinsic value may entitle them to; and I desire only to be regarded as connected with you, in guarding with watchful care the great interests entrusted to us, and doing my duty in this important crises according to my best judgment. If my views are erroneous; or if I am, in your opinion, unnecessarily strict or severe in my judgment of intentions, or too limited in my suggestions of policy, I trust to you to correct or to overrule me. I assume no right to dictate or controul your action.

In the communication from Mr. Forsyth, in connection with a very lucid and interesting history of the negotiations between the two Governments, we are informed that the discussions between the Federal Government and that of Great Britain have arrived at a stage, in which the President thinks it due to the State of Maine, and necessary to the intelligent action of the General Government, to take the sense of this State in regard to the expediency of opening a direct negotiation for the establishment of a conventional line; and if Maine should deem an attempt to adjust the matter in controversy in that form advisable, then to ask the assent of Maine to the same.

The grave and important question, therefore, presented for your consideration, as you will more fully perceive by the documents referred to, is whether you will clothe the Executive of the United States with the unlimited power of fixing a new and conventional line, in lieu of the Treaty Boundary.

It is certainly gratifying to perceive, that the right of Maine to be heard and consulted before the Treaty line is abandoned, is fully recognized by the



General Government; and I have no doubt the Legislature of Maine will approach the consideration of the proposition in the same spirit it is offered, and with an anxious desire to terminate this long-pending and embarrassing question, if it can be done without too great a sacrifice of honour and right. Although the documents are somewhat voluminous, the proposition is single and simple in its character, and easily understood.

I have given to the subject all the reflection and examination I have been able to bestow, since the reception of the documents, and with a most anxious desire to acquiesce in any feasible scheme of adjustment, or any reasonable proposition for a settlement, I feel constrained to say, that I can see little to hope, and much to fear, from the proposed departure from the Treaty line.

I think that the most cursory examination of the correspondence and movements on the part of Great Britain, must satisfy any one, that the leading object which her diplomatists have had in view since the result of the arbitration, has been to destroy or lay aside the Treaty line,—to lead us away from the clear, unambiguous, definite terms of that Treaty, and involve us in interminable discussions, propositions, and replies in relation to conventional lines, no one of which would be accepted unless it gave to them a large part of our territory. We find that in May, 1833, very soon after the President, in pursuance of the advice of the Senate, had opened a new negotiation to ascertain the line, *according to the Treaty of 1783*, to which Treaty line the negotiation of course was confined, the British Minister suggested, “that this perplexed and hitherto interminable question, could only be set at rest by an abandonment of the *defective* description of boundary contained in the Treaty, and by the two Governments mutually agreeing upon a *conventional* line more convenient to both parties.” The same intention is apparent in the refusal to acquiesce in the proposition, to refer the settlement of the Treaty line to a Commission, to be constituted of an equal number chosen by each party, with an umpire, to be designated by a friendly Power from the most skilful men in Europe; or, secondly, that the Commission should be entirely composed of such scientific men of Europe, to be selected by some friendly Power, to be attended in the survey and view of the country by agents appointed by the parties. It was in answer to this proposition, that the suggestion of the impracticability of the Treaty line was made; and the intention became apparent, to lead us away from that inconvenient obstacle to their wishes and plans—the Treaty language. The proposition was so equitable and fair, so just to all parties, and so full of promise of adjustment upon proceedings satisfactory to us, that it could not be peremptorily rejected. But, although it was entertained, the answer to it clogged the proposition with so many conditions, and so limited the powers of the Commissioners, and required the concession on our part of the all important fact, that the St. Johns and Restigouch are not Atlantic Rivers; that the original plan was at once deprived of all vitality, or power, or use; and, in fact, the reference would have been merely an agreement to abide by the decision, provided both parties should be satisfied and assent to it.

It is certainly somewhat remarkable that if the assumed fact is true, viz.: that the Treaty line cannot be laid down or fixed according to the Treaty, that so much unwillingness should be exhibited to have an attempt made to ascertain it; or if Great Britain is so strongly convinced of the justice and strength of her argument and claim, that she should be so reluctant to refer the whole question to disinterested and scientific Europeans. There is an apparent, and I doubt not a real anxiety to avoid discussion or examination based upon the Treaty, and I fear that if we once abandon that line in search of a conventional one, we shall never be able to bring them back again to consider the present line, or to recognize the Treaty as of any binding efficacy. I fear, too, that the only question in negotiation for a conventional line, will be how large a portion of our territory we must yield up. The suggestion made by our Government to take the river St. John, from its mouth to its source, as the boundary, was rejected, with a simple expression of wonder that it should have been made; and our Government is told explicitly, that “His Majesty’s Government cannot consent to embarrass the negotiation respecting the boundary, by mixing up with it a discussion regarding the navigation of the St. John, as an integral part of the question.” The intimation seems plain, that no negotiation for an exchange of territory or privileges will be entered into, but the single point will be, how shall the disputed territory be divided between the parties? I fear that if we abandon the Treaty language, so clear and so decided in our favour, and so much at variance with their claim,

we shall leave a certainty for an uncertainty, and throw doubt, confusion and embarrassment over our claim and our course of action, and yield to Great Britain the great obstacle we now present to her grasping spirit—the solemn Treaty of 1783.

And what security have we that any line can be fixed upon which shall be permanent; or what certainty is there that the new line may not be declared to be “impracticable,” whenever it may come in contact with any of the plans or wishes of Great Britain? It would certainly be difficult to present a stronger and clearer case than we now do; and if diplomacy and skill can manufacture doubts and embarrassments in the discussion of the question as now presented, we may well despair of ever fixing a certain and unalterable line of Boundary. If I am accused of injustice or severity in these remarks, I would point, in justification, to the remarkable progress of the doubts and assertions in relation to the Treaty line of Boundary. When the question as to which river was the true St. Croix of the Treaty (which was the only question then in dispute), was before the Commissioners under the Treaty of 1794, the British agent founded his principal argument for the westernmost river, upon the ground that a line due north from the source of that river would only include a part of one of the rivers (the St. Johns) which have their mouth within New Brunswick. He says, “The most accustomed and convenient rule in cases of this kind, is to leave to each Power respectively, the sources of those rivers that empty themselves, or whose mouths are within its territory upon the sea coast, if it can be done consistently with, or in conformity with the intent of the Treaty. A line due north from the source of the western or main branch of the Schoudiac or St. Croix, will fully secure this effect to the United States in every instance, and also to Great Britain in all instances except in that of the River St. John, wherein it becomes impossible, by reason that the sources of this river are to the westward, not only of the western Boundary line of Nova Scotia, but of the sources of the Penobscot, and even of the Kennebec, so that this north line must of necessity cross the St. John; but it will cross it in a part of it almost at the foot of the Highlands, and where it ceases to be navigable. But if a north line is traced from the source of the Cheputnatecook, it will not only cross the River St. John within about fifty miles from Fredericton, the metropolis of New Brunswick, but will cut off the sources of the rivers which fall into the Bay of Chaleurs, if not many others, probably of the Meramichi, among them which fall into the Gulf of St. Lawrence, and thereby be productive of inconvenient consequences to the two Powers, if not of contention between them, instead of “terminating their differences in such a manner as may be best calculated to produce mutual satisfaction and good understanding, which is one of the principal and avowed objects of the Treaty.” At this time, then, there was no doubt that the line running due north to the Highlands of the Treaty, must cross the St. Johns River, and if the starting point was carried east, it is admitted that such line would cut off the Restigouch, which is nearly as far north as our claim. And certainly the line was to run equally far north, whether the starting point was east or west, unless the Highlands inclined to the south. And yet we are now required, as a preliminary, to admit that the St. John and Restigouch are not Atlantic rivers, within the meaning of the Treaty. In 1814, when the negotiations which resulted in the Treaty of Ghent were in progress, no pretence was made that our line did not extend beyond the St. Johns, and according to our present views.

Great Britain, then, by her negotiators, expressly stated, that she “desires the *revision* of the frontier between her North American dominions and those of the United States, not with any view to an acquisition of territory, as such, but for the purpose of securing her possessions, and preventing in future, disputes, and such a *VARIATION* of the line of frontier as may secure a direct communication between Quebec and Halifax.” And when our negotiators peremptorily refused to agree to any *cession* of territory, the answer was, that they “were not prepared to anticipate the objections contained in the note of the American Plenipotentiaries; that they were instructed to treat for a revision of their Boundary lines, with the statement which they have subsequently made; that they had no authority to *cede* any part, however insignificant, of the territories of the United States, although the proposals left it open for them to demand an *equivalent* for such cession, in territory or otherwise.” And yet, now that territory which they offered to pay us for, is claimed as clearly their own; and that line which then was admitted and recognized as including the territory as claimed by us, is now



declared to be impracticable, and must be abandoned, and a more convenient one sought for and established.

I feel most sensibly, that the question now presented is one of very grave importance, and that the action now to be had by the Legislature of Maine, may, and probably will, have a very material influence upon the relations between this Government and Great Britain.

The painful conviction is forced upon me, that Great Britain is determined to hold this territory, that she now claims, deeming it highly important as securing a connection between her provinces in time of war and peace; and I reiterate the assertion heretofore made, that "we have little to hope from the forbearance or action of the British Government. Their aim is apparent to expunge the treaty provision, and to hold on with an unyielding grasp, to their modern claim, and reject all propositions having the treaty line for their basis." I cannot but regard it as unfortunate, that our General Government, although it has recognized our right to be consulted before any conventional line should be adopted, has, in a degree at least, given countenance to the propriety and expediency of departing from the treaty line. In a note from the Department of State, dated 28th April, 1835, Sir Charles R. Vaughan was assured "that his prompt suggestion, as His Britannic Majesty's Minister, that a negotiation should be opened for the establishment of a conventional boundary, between the two countries, was duly appreciated by the President, who, had he possessed like powers with His Majesty's Government over the subject, would have met the suggestion in a favourable spirit." Such a suggestion, it seems to me, although dictated, doubtless, by a sincere desire to end the controversy, was well calculated to lead our opponents, as a matter of policy on their part, to clog the previous proposition with insuperable difficulties, and to encourage them to persevere in their attempt to obliterate the Treaty language. I think the same effect must have resulted from the singular annunciation to the British Government, by the late President of the United States, in 1832, in opening the negotiation under the vote of the Senate, for a settlement of the Treaty line, "that if the Plenipotentiaries should fail in a new attempt to agree upon the line intended by the Treaty of 1783, there would probably be less difficulty than before, in fixing a convenient Boundary, as measures were in progress to obtain from the State of Maine, more extensive powers than were before possessed, with a view of overcoming the constitutional obstacles which had opposed themselves to such an arrangement."

If a direct proposition had come to us, through the General Government, for a specific line of Boundary, yielding to us territory, or privileges of navigation equivalent to the unsettled territory which we might cede to them, it would certainly have presented the question in a different aspect. But the question *now* is, as I understand it, whether we shall take the lead in abandoning the Treaty, and volunteer propositions for a conventional line.

In respect to the proposition for additional surveys, as it seems to me inexpedient, for this State to acquiesce in the proposed negotiation for a conventional line, until it is *demonstrated* that the Treaty line is utterly impracticable and void for uncertainty, I can have no doubt that the line ought to be run, either by a joint Commission of Exploration and Survey, or independently, by our General Government, by its own surveyors. It is evident to me, that Great Britain is determined to avoid, if possible, such an examination and exploration and establishment of the line, and such proof of the real facts of the case.

It will be perceived, that the President intimates, that if the consent of Maine is not obtained, for entering into direct negotiations for a conventional line, and all other measures failing, "he will feel it to be his duty to submit another proposition to the Government of Great Britain, to refer the decision of the question to a third party."

As this right is claimed on the part of the President as within his constitutional powers, without the consent of Maine, and as no action on the part of Maine, in reference to this mode of adjustment, is asked by the President, I forbear to comment upon it, but refer it to your consideration.

Our situation, in relation to this interesting question, at this moment, demands the exercise of cool and dispassionate judgment, and careful, cautious, but firm action. We owe it to the General Government and our sister States, to do nothing rashly or hastily—to bear and forbear for the sake of the peace of the nation and the quiet of our borders. But we have a duty to perform to our-

selves and our constituents, who have entrusted the rights and honour of Maine to our keeping. Relying upon your patriotism and intelligence, and caution, I place these documents before you, and ask your action upon them, in the confident hope, that the rights and the territory secured to us by our fathers, in the field and the cabinet, will not be impaired or surrendered.

(Signed)

EDWARD KENT.

Council Chamber, March 14, 1838.

Inclosure 3 in No. 3.

# STATE OF MAINE.

*Resolves in relation to the North-Eastern Boundary.*

Resolved—That it is not expedient to give the assent of this State to the Federal Government to treat with that of Great Britain for a conventional line for our north-eastern Boundary, but that this State will insist on the line established by the Treaty of 1783.

Resolved—That, as this State has never heretofore given her consent to the appointment of an umpire under the Treaty of Ghent, in 1814, but has protested against the same; and as she believes it to be a grave question, whether the provision in the Treaty for this purpose has not done its office, and is therefore no longer in force, she is not now prepared to give her assent to the appointment of a new arbiter.

Resolved—That our Senators and Representatives in Congress be requested to urge the passage of the Bill for the Survey of the North-eastern Boundary of the United States, &c., now pending in Congress; and that, if said Bill shall not become a law during the present session of Congress, and if the Government of the United States, either alone or in conjunction with Great Britain or the State of Maine, shall not, on or before the first day of September next, establish and appoint a Commission for a survey of said Boundary line, it shall then be the imperative duty of the Governor, without further delay, to appoint forthwith suitable Commissioners and Surveyors, for ascertaining, running, and locating, the north-eastern Boundary line of this State, and to cause the same to be carried into operation.

Resolved—That the Governor be requested to transmit to the President of the United States one copy of his Message to the Legislature, on the subject of the north-eastern Boundary and these Resolutions, and one copy of the same to each of the Heads of Department at Washington, one copy to each of our Senators and Representatives in Congress, and one copy to the Governor of Massachusetts.

Read and passed, in the House of Representatives, March 23, 1838.

ELISHA H. ALLEN, *Speaker*.

Read and passed, in Senate, March 23, 1838.

N. S. LITTLEFIELD, *President*.

March 23, 1838. Approved.

EDWARD KENT.

Inclosure 4 in No. 3.

*Mr. Fox to Mr. Forsyth.*

Sir,

Washington, May 1, 1838.

I HAVE the honour to acknowledge the receipt of your official note of the 27th ultimo, in which you inclose to me a communication received by the Federal Government from the Executive of Maine, upon the subject of the north-eastern Boundary line, and in which you inform me, that the President is willing to enter into an arrangement with Her Majesty's Government, for the establishment of a Joint Commission of Survey and Exploration, upon the basis of the original American proposition, and of the modifications offered by Her Majesty's



Government, as communicated to you in my note of the 10th of January last; and you invite me to a conference, for the purpose of negotiating a Convention that shall embrace the above object, if I am duly empowered by my Government to proceed to such negotiation.

I have the honour to state to you, in reply, that my actual instructions were fulfilled by the delivery of the communication which I addressed to you on the 10th of January, and that I am not at present provided with full powers for negotiating the proposed Convention. I will forthwith, however, transmit to Her Majesty's Government the note which I have had the honour to receive from you, in order that such fresh instructions may be addressed to me, or such other steps taken, as the present situation of the question shall appear to Her Majesty's Government to require.

I have, &c.,  
(Signed) H. S. FOX.

No. 4.

*Mr. Fox to Viscount Palmerston.—(Received March 13, 1839.)*

(Extract.)

*Washington, February 23, 1839.*

I RECEIVED this morning, the inclosed important communication from the Lieutenant-Governor of New Brunswick, containing a Proclamation issued by his Excellency, on the 13th instant, with a report from the authorities of Woodstock, in New Brunswick, upon which that Proclamation was founded;—and conveying to me the information of an unjustifiable incursion into a part of the disputed territory, situated on the Restook River, by an armed body of men from the State of Maine, acting to all appearance under authority of the Government of the State.

Upon receiving this communication from Sir John Harvey, I lost no time in addressing to the United States Secretary of State, the inclosed official note, in which I have duly asserted the claim of Her Majesty's Government to the exclusive right of jurisdiction over the disputed territory, pending the negotiation of the Boundary Question; and have invoked the interference of the General Government, to prevent the hostile collision, now imminent, on the north-eastern frontier, by causing the authorities of Maine to withdraw their armed force from the disputed territory, and to desist from all attempt to exercise jurisdiction therein, in obedience to the explicit agreement subsisting to that effect between the two Governments.

I have, also, since presenting the above note, had, in the course of the day, a personal interview with Mr. Forsyth. I am to have a further conference with Mr. Forsyth to-morrow: and I shall anxiously strive to meet the pacific wishes of the President, if any means may possibly be found of doing so, without detriment or dishonour to vital British rights or interests. In the present condition of things in Canada, and on the Canadian frontier, I am impressed with a sense of the more than usual importance of maintaining peace, if possible, on the border of New Brunswick and Maine.

Intelligence from the seat of the present disturbance, by many days more recent than what has been received at Washington, will be conveyed to England by the steamer "Great Western," which departs from New York on the morning of the 25th instant. I send the present despatch by a special messenger to New York, to be forwarded by the "Great Western." I shall have the honour again to address your Lordship, by the steamer "Liverpool," which is expected to leave New York, for England, on the 5th of March.

Inclosure 1 in No. 4.

*Major-General Sir John Harvey to Mr. Fox.*

Sir,

*Fredericton, New Brunswick, February 13, 1839.*

I SEND your Excellency a Proclamation issued by me this day. The act of the State of Maine, against which it is directed, is sufficiently explained by the Proclamation to which it has given rise. While I trust there will be found in that document evidence of my determination not to permit any of Her Majesty's subjects in this Province to take the law of reprisal, or resistance to foreign aggression into their own hands; at the same time aware as you are of the nature and extent of my instructions, I trust that this Proclamation will be regarded as conveying to your Excellency amply sufficient grounds upon which to rest a strong and energetic appeal to the chief government of a nation, against the conduct of one of its Confederate States, by which one of Her Majesty's Representatives has been placed in the trying position of either failing in the fulfilment of the commands of his Sovereign, or of placing the two Nations in a state of immediate and active hostility. I will write to your Excellency more in detail on this subject in a day or two. In the meantime, I trust that no protest or remonstrance may be delayed on the part of your Excellency, against a proceeding fraught with consequences so fatal to the peace of the two Nations. I inclose the copy of the Report upon which my Proclamation was founded.

I have, &c.,  
(Signed) J. HARVEY.

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Inclosure 2 in No. 4.

*Proclamation by his Excellency the Lieutenant-Governor of New Brunswick.*

WHEREAS, I have received information that a party of armed persons, to the number of two hundred, or more, have invaded a portion of this Province, under the jurisdiction of Her Majesty's Government, from the neighbouring State of Maine, for the professed object of exercising authority, and driving off persons stated to be cutting timber therein; and that divers other persons have, without any legal authority, taken up arms with the intention of resisting such invasion and outrage, and have broken open certain stores in Woodstock, in which arms and ammunition belonging to Her Majesty were deposited, and have taken the same away for that purpose,—I do hereby charge and command all persons concerned in such illegal acts, forthwith to return the arms and ammunition so illegally taken to their place of deposit, as the Government of the Province will take care to adopt all necessary measures for resisting any hostile invasion or outrage that may be attempted upon any part of Her Majesty's territories or subjects. And I do hereby charge and command all magistrates, sheriffs, and other officers to be vigilant, aiding and assisting in the apprehension of all persons so offending, and to bring them to justice. And in order to aid and assist the civil power in that respect, if necessary, I have ordered a sufficient military force to proceed forthwith to the place where these outrages are represented to have been committed, as well to repel foreign invasion, as to prevent the illegal assumption of arms by Her Majesty's subjects in this Province. And further, in order to be prepared, if necessary, to call in the aid of the Constitutional Militia Force of the country, I do hereby charge and command the officers commanding the first and second battalions of the Militia of the County of Carleton forthwith to proceed as the law directs, to the drafting of a body of men, to consist of one-fourth of the strength of each of those battalions, to be in readiness for actual service, should occasion require.

Given under my hand and seal at Fredericton, the thirteenth day of February, in the year of our Lord one thousand eight hundred and thirty-nine, and in the second year of Her Majesty's reign. By his Excellency's command.

(Signed) WILLIAM F. ODEL.

God save the Queen.

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## Inclosure 3 in No. 4.

*The authorities of Woodstock to Major-General Sir John Harvey.*

Sir,

Woodstock, N. B., February 12, 1839.

WE having received authentic information, that an armed force of the Militia of the State of Maine, consisting of upwards of 200 men, have arrived at Restook, for the avowed purpose of driving off certain persons cutting timber on the disputed territory on the Restook, and then proceeding to the disputed territory on the Madawaska, for the same purpose; we deem it our duty to acquaint your Excellency with these facts; and also further to report, that a number of persons unknown did on the night of the 11th instant, break open the stores of A. S. Carman, Esq., Charles Connel, Esq., and Mr. James Segee, in Woodstock, (in which stores a quantity of arms belonging to Her Majesty had been deposited for safe keeping,) and took away the said arms and ammunition, for the purpose, as we suppose, of opposing the said armed force. We beg to state, that the said party did not receive any sanction from the authorities in Woodstock, for so doing.

(Signed)

R. KETCHUM,  
Lieutenant-Colonel.  
JOHN WINSLOW.  
Sheriff of Carleton.

## Inclosure 4 in No. 4.

*Mr. Fox to Mr. Forsyth.*

Sir,

Washington, February 23, 1839.

I HAVE this day received a despatch from Major-General Sir John Harvey, Lieutenant-Governor of the Province of New Brunswick, containing the inclosed Proclamation issued by his Excellency on the 13th instant, and conveying to me the information of an unjustifiable incursion into a part of the disputed territory situated on the Restook River, by an armed body of Militia from the State of Maine, acting to all appearance under the authority of the Government of the State.

The professed object of this incursion is stated to be, to capture or drive away a party of persons, who are alleged to be trespassing, and cutting timber, on lands in the neighbourhood of the Restook River.

But it is well known that all that part of the disputed territory is placed under the exclusive jurisdiction of Her Majesty's authority; and that it is bound to remain so, by explicit agreement between the Governments of Great Britain and the United States, until the final settlement of the Question of the north-eastern Boundary.

Her Majesty's officers, therefore, cannot permit any act of authority, such as is now attempted by the State of Maine, to be exercised within the territory in question; and it will become the bounden duty of the Lieutenant-Governor of New Brunswick to resist the attempt, and to expel by force the Militia of Maine, if the present incursion be persisted in.

Under these circumstances, I invoke the immediate interference of the General Government of the United States, to prevent the threatened collision, by causing the authorities of Maine to withdraw voluntarily their Militia Force, and to desist, in obedience to the agreement subsisting between the two Nations, from their present unwarrantable proceedings.

I avail myself &c.,  
(Signed) H. S. FOX.

## No. 5.

*Mr. Fox to Viscount Palmerston.—(Received March 26, 1839.)*

(Extract.)

*Washington, March 7, 1839.*

IN my despatch of the 23rd ultimo, I had the honour to report to your Lordship the course which had been pursued at Washington up to that day's date, with respect to the serious and alarming dispute that has arisen between the Governments of New Brunswick and Maine.

On the 25th of February, I received from the United States Secretary of State, the inclosed official reply to the letter which I had addressed to him on the 23rd, a copy of which letter was forwarded to your Lordship in my despatch of the 23rd. On the same day I addressed to Mr. Forsyth, in rejoinder to his reply, a second communication, of which I have likewise the honour herewith to inclose a copy.

The first part of Mr. Forsyth's letter is devoted to the object of explaining to me that the expedition first undertaken by the Authorities of Maine into the Restook district, and which has led to the subsequent hostile movements on both sides, was not a military incursion, and ought not to have been objected to or resented as such, by the Government of New Brunswick; that the expedition consisted of a land agent's party, employed for purposes of civil action, and escorted by an armed force, only because of the notoriously audacious and refractory character of the trespassers, whom it was the object of the land agent to disperse.

The above explanation is, perhaps, to some extent satisfactory; but the part of the quarrel to which it relates has been thrown out of sight by the aggravated character of the subsequent movements.

The second part of Mr. Forsyth's letter conveys, a denial, on the part of the Government of the United States, of the existence of an agreement, as understood by Her Majesty's Authorities, respecting the right of exclusive jurisdiction to be exercised by Great Britain within the disputed territory, pending the negotiation for a final settlement of the Boundary Question.

In the answer which I returned to this part of Mr. Forsyth's letter, I have confined myself to protesting against the ground now assumed by the United States Government. I have abstained from entering into a detailed argument upon the point at issue, until I shall have received a more full instruction from Her Majesty's Government; and hoping always that an early settlement of the general question may render this minor point of difference of little or no moment.

I am aware that our case, with respect to the right of present jurisdiction, does not rest upon any one specific article of contract, guaranteeing to us the exercise of that exclusive right; but that it rests upon an understood agreement, resulting by rigorous deduction from a long train of facts and admissions, spread over a controversy and correspondence of many years. As it was necessary that my reply should be delivered to Mr. Forsyth on the same day that I received his letter, with a view to its being annexed to the correspondence which was on that day to be communicated by the President to Congress, the time did not allow of my undertaking, in detail, an argument of the above character, even if it had appeared advisable on other accounts that I should do so.

It resulted from this correspondence, and from the Special Message which on the same day was transmitted by the President to Congress, that Her Majesty's Authorities in America were now placed directly at issue with the United States Government upon the subordinate point of the boundary controversy which relates to the exercise of present jurisdiction; and that if the Lieutenant-Governor of New Brunswick should persevere to carry out his instructions by force of arms, the event would be immediate war between Great Britain and the United States.

In order to avert honourably, if possible, this precipitate appeal to arms, I proposed that the United States Secretary of State and myself should sign provisionally a joint agreement, recording our opposite views upon the point at issue; declaring that an understanding upon that point could only be arrived at by further discussion between the two Governments, and recommending, in the



mean time, a suspension of hostile movements on the part of the Government of New Brunswick, and a voluntary withdrawal, by the State of Maine, of the armed force which had been marched into the disputed district.

The proposal was immediately acceded to by the President. The joint agreement, in the form of a memorandum, of which I have the honour herewith to inclose a copy, was signed by Mr. Forsyth and myself on the 27th of February. It was forwarded by me on the same day, by a special messenger, to Sir John Harvey. Major-General Scott, of the United States Army, was despatched from Washington on the 28th, the bearer of the same communication to the Governor of Maine; and charged by the President to use every effort in his power for the preservation of peace on the north-eastern border; consistently always with the ground now assumed by the United States Government with respect to the contested right of present jurisdiction, and with their resolution to resist the assertion of that right by armed force on the part of Her Majesty's Provincial Authorities. The memorandum was likewise on the same day communicated by the President, in a special message, to both Houses of Congress.

I herewith further inclose the copy of an official letter, which I addressed to the Lieutenant-Governor of New Brunswick, conveying my reasons for recommending to his adoption the terms of accommodation proposed in the memorandum. I hope that this pacific arrangement, in the conclusion of which no time was lost, will have the effect of averting a collision of arms, until such time as a definite understanding can be arrived at, by discussion, between the two Governments, upon the contested point of present jurisdiction; or until a final settlement of the Boundary Question shall have caused that minor point of difference to disappear.

I now proceed to report to your Lordship the proceedings in Congress, that have arisen out of the present dispute.

On the 22nd or 23rd ultimo, about the same time that I received the official communications addressed to me by Sir John Harvey, letters were received by the President from the Governor of Maine, calling upon the Federal Government to support the State of Maine in its resistance to the intended military occupation of the disputed territory by the Lieutenant-Governor of New Brunswick.

As a few days then only remained before the termination of the session of Congress, and as, under the view of the existing dispute assumed by the President, a case of war might arise before the meeting of the ensuing Congress,—the elections for which will not be completed until next September,—it was judged necessary to lay the whole matter, without delay, before the two houses, and to invite their counsel and action thereupon.

A special message was accordingly transmitted to Congress on the 26th of February, conveying copies of the correspondence which had passed between the President and the Governor of Maine, and between the Secretary of State and myself. A second special message was transmitted on the 27th, communicating the memorandum which had been that day signed by the Secretary of State and myself.

I herewith inclose printed copies of the above messages and documents.

The President, in his language to Congress, assumes, upon the points now at issue, the same ground which had been taken by Mr. Forsyth, in his official letter to me of the 25th of February; qualifying the first movement on the part of Maine, as a process of civil jurisdiction rather than a military expedition; denying the existence of an agreement for the exclusive exercise of jurisdiction by Great Britain; disavowing any right on the part of Maine, to hold military possession of the disputed district; but declaring, that if the authorities of New Brunswick shall attempt, on their side, to sustain by force of arms the claim to exclusive jurisdiction asserted by Great Britain, the Federal Government will then be bound to assist the State of Maine in repelling such attempt, as an invasion of the territory of the United States.

This last proposition is broadly and distinctly affirmed; but the general tone and language of the message are very far from being hostile or unfriendly towards Great Britain. No definite course of action is recommended to Congress, but its attention is invited to the subject, in order to obviate the possible necessity of convening an extra session.

The President's messages were referred by the two Houses to their Com-

mittees of Foreign Affairs. The Committees delivered their Reports on the 28th of February.

The Report from the Committee of the Senate consisted of four resolutions, reasserting the principal propositions above-mentioned, which had been contained in the President's message. These resolutions were passed unanimously by the Senate on the 1st of March; an amendment moved by Mr. Webster, the Senator from Massachusetts, of hostile character towards Great Britain, and favourable to the most violent pretensions of Maine, having been previously rejected by a vote of 26 to 19.

The Report from the Committee of the House of Representatives embodied in much stronger language, and with more detail, the same propositions which had been asserted by the President in his message, and by the Senate in their resolutions; and concluded by recommending to Congress, a Bill to clothe the President with additional powers for the defence of the territory of the United States against invasion.

This Bill, which forms the most important part of the proceedings of Congress, after undergoing some alterations from the original draft by the Committee, was passed in the House of Representatives on the 2nd of March, almost unanimously, by a majority, namely, of 201 to 6. It was on the same day passed unanimously, and without discussion, by the Senate; and immediately received the assent of the President.

The first section of the Bill authorizes the President to resist any attempt, on the part of Great Britain, to enforce by arms her claim to exclusive jurisdiction over the disputed territory. Other sections place the following means, for the above-mentioned purpose, at the disposal of the President:—the services of the army and militia of the United States as at present organized; authority to accept the services, in addition to the above, of 50,000 volunteers; to arm, equip, and man the whole navy of the United States; to equip armed steam-boats on the frontier lakes and rivers, for resistance to invasion by Great Britain in that quarter; to repair and arm the seaboard fortifications; to raise by loan ten millions of dollars, for defraying the expense of the above armaments. The President is further authorized to appoint a Special Minister to England, to hasten the settlement of the boundary dispute.

Such are the principal provisions of the extraordinary Bill which has been passed by the Congress of the United States. It is impossible not to behold therein the evidence of a jealous and unfriendly intention towards Great Britain. A greater parade of preparation need scarcely have been made, if Great Britain had declared a desire to reconquer the United States as British colonies. I feel, however, that the prudent and pacific nature of the President, in whose hands these powers have been placed, and his well-known friendly feelings towards England, will go far to strip the Act of the offensive and mischievous character which it would otherwise have borne.

The discussions upon the President's message, and upon the reports of the Committees, which preceded the passage of the Bill, were distinguished, in both Houses, by unwonted unanimity; by extreme asperity against England; and by an unaccountable exhibition of dismay, at apprehended projects of invasion by British power.

I also inclose authentic copies of the resolutions of the Senate, of the report from the House of Representatives, and of the Bill for defence against invasion, in the form in which it was finally passed.

With reference to that section of the Act, which provides for a Special Mission to England, the President and Mr. Forsyth inform me, that Mr. Stevenson will be instructed to inquire from your Lordship, whether the appointment of such a Mission will be agreeable to Her Majesty's Government; and whether Her Majesty's Government are of opinion, that the measure would be likely to conduce to a more speedy settlement of the Boundary Question. No decision will be taken by the President until your Lordship's answer shall have been received.

It is scarcely necessary to add, that the more warlike clauses of the Bill will not be acted upon, excepting in the positive event of what the Bill qualifies as invasion of the United States by Great Britain.



With respect to the contested point of temporary jurisdiction, out of the recent agitation of which all the present excitement has arisen, I have reason to believe that the President will be satisfied, if Her Majesty's Government shall adopt, for the remaining period of the boundary negotiation, the terms of accommodation proposed in the memorandum signed by Mr. Forsyth and myself. The whole quarrel may, perhaps, by such means, be honourably and prudently composed. It would be a deplorable and senseless act, if while the two Governments are negotiating, in a friendly spirit, the general question of the disputed boundary, the nations should be hurried into war, in order to decide the minor point, as to which of them shall in the mean time exercise provisional jurisdiction over the territory in dispute.

According to the latest news received at Washington from the scene of action, the State of Maine was continuing to march troops into the disputed territory, and every effort was being used by the Authorities to inflame the excitement of their citizens. On the side of New Brunswick, it does not appear that Sir John Harvey had yet advanced beyond the line of the River St. John. More recent intelligence, however, of the actual operations on the border, will be conveyed to England by the way of New York.

The present despatch will be transmitted by the steam-ship "Liverpool," which departs from New York on the 9th instant.

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Inclosure 1 in No. 5.

*Mr. Forsyth to Mr. Fox.*

Sir,

*Department of State, Washington, February 25, 1839.*

YOUR letter of the 23d instant, calling upon the General Government to interfere to prevent a collision between the Governments of New Brunswick and the State of Maine, which you apprehend will be the consequence of a recent attempt made by the State authorities to expel trespassers upon the public lands in the territory in dispute between the Governments of the United States and Her Britannic Majesty, has been laid before the President, who, after a careful examination of its contents, has instructed me to reply that your own note and the proclamation of Sir John Harvey, the Lieutenant-Governor of New Brunswick, which was sent with it, have been both prepared under erroneous impressions as to the facts of the transaction to which they relate. Communications from the Government of Maine enable me to state you that the recent movement in the disputed territory was founded upon a resolution of the Legislature, a copy of which is herewith inclosed. You will perceive that no military occupation of the territory was contemplated, the sole object having been to remove trespassers who, in violation of the right of property, to whomsoever it may belong, and the declared intentions of both Governments, were gradually and hourly diminishing its value. From the authority given to the agents of the State of Maine, and from information of an undoubted authenticity, it is known that the persons engaged in this affair, although armed, from an apprehension of resistance from the large body of armed lawless aggressors on the public domain, were not detailed from the militia of the State for that purpose, but were employed by the land agent of Maine and one of her sheriffs, who were to direct and control all their movements. Had the sole and avowed object been accomplished, the party would have immediately withdrawn, leaving the territory, in all other respects, in the condition in which it was found by them. This termination of the enterprise has been thus far suspended by the unexpected seizure and detention of the land agent of Maine, who was arrested by the trespassers when in the act of putting himself in communication with the agent of the Government of New Brunswick, appointed by that Government to watch the trespassers he had himself been directed to arrest or drive off. Her Majesty's Government cannot be surprised, however, much as it may regret, with the President, that Maine has thought herself compelled to adopt some decisive movement on the subject, when it is recollected that, as long ago as the year 1829, Mr. Clay, then the Secretary of State, apprized the British minister, Sir Charles R. Vaughan, on the occurrence of similar, but less extensive violations of the property in question, alleged to have been authorized by the Colonial

Government, that, if such trespasses were authorized or countenanced on the disputed territory, it was not to be expected that the State of Maine would abstain from the adoption of preventive measures. It is true that, in the present instance, the trespassers were not believed to have been either countenanced or authorized by Her Majesty's Colonial Government, but that circumstance would, itself, lead to some surprise at the excitement produced by an act equally required by the interests of both nations. Sir John Harvey has, indeed, subsequently taken measures which prove his own conviction of the necessity of interference on the part of one or both Governments to arrest a systematized plundering of the public domain. The President hopes, therefore, that, as you will perceive that there was no military occupation attempted; that the object in view was perfectly lawful, the necessity of it being acknowledged by the act of Sir John Harvey; that, as soon as the purpose is accomplished, the agent and his assistants will, as heretofore on like occasions, be withdrawn, that you will not find it difficult to satisfy Her Majesty's Colonial authorities that there can be no occasion for collision with Maine, growing out of the renewed exercise, on her part, of an oft-asserted right due to herself, and useful, in this instance, to Her Majesty's Government, whatever may be the result of the pending negotiation, especially on the supposition that the territory in question should hereafter be found to belong to the British provinces. In that event, the President persuades himself, from the known disposition and long-tried forbearance of the State authorities, that he will find it easy to prevent any military array on the territory on the part of Maine, or procure the voluntary disbandment of any militia that may have been brought together from the apprehension of a collision with the Colonial Government. The propriety of the prompt release, on each side, or the agents of the State and Colonial Governments, who have been arrested, as the President believes, under a mutual misapprehension, is so obvious, that he takes it for granted they will be respectively set at liberty, if that has not been already done.

It would give me pleasure to be able to conclude this communication without further remark; but there is another error in your letter, of so grave a character, that, to avoid all possibility of a misapprehension, the President has made it incumbent upon me to call it to your especial notice. It is the assertion that "it is well known that all that part of the disputed territory is placed under the exclusive jurisdiction of Her Majesty's authority; and that it is bound to remain so, by explicit agreement between the Governments of Great Britain and the United States, until the final settlement of the question of the north-eastern boundary." That Great Britain has sought, on several occasions, to prove argumentatively that the exclusive jurisdiction vested with her until the final settlement of the question, I shall not controvert; but the question of title, and of the right of jurisdiction as consequent thereon, or as resulting from the previous exercise thereof, has been a subject of continued controversy between the two Governments, in respect to which neither has released or waived its claims. So far from any relinquishment of right of jurisdiction having been made, or any agreement, either express or implied, entered into on the part of the Government of the United States, of the nature alleged by the Lieutenant-Governor of New Brunswick, and affirmed also in your note of the 23rd instant, it will appear from the whole course of the correspondence between the two Governments, extending through a series of years, that that of the United States has throughout, and on frequent occasions, solemnly protested as well against the existence of the right to the exclusive possession and jurisdiction as to the exercise thereof; and has upon every proper occasion asserted that both belonged to Maine and to the United States. The assertion now made, therefore, appears to the President to be so extraordinary, that I am instructed to ask from you a full explanation of the ground upon which it is placed, as the President owes it in duty to the General and State Governments, that the error may be traced to its source, and that the two Governments may know distinctly, and without delay, the true extent of their understanding on this point, that no unfortunate or fatal consequences shall spring from any misconception on either side in respect to it. In the present state of the intercourse between Great Britain and the American continent, and the rapidity with which Her Majesty's Government can be consulted on all questions arising with this Government, or in Her Majesty's possessions, the President believes that this state of the question



should, of itself, furnish an amply sufficient reason to prevent any hasty action on the part of the Colonial Government, which may lead to results fatal to the good understanding, and eminently hurtful to the prosperity of the two countries.

I cannot take leave of this subject without adverting to the delay of Her Majesty's Government in making some decisive proposition to advance the final settlement of the question of boundary; thus exposing the two Governments, as the present condition of things on the frontier too clearly shows, to consequences which neither can look to without pain, and full of mortification to that one to whom any unnecessary procrastination may be justly attributable.

I avail myself of the occasion to offer you assurances of the high respect and consideration with which I have the honour to be your obedient servant.

(Signed) JOHN FORSYTH.

Inclosure 2 in No. 5.

*Mr. Fox to Mr. Forsyth.*

Sir,

*Washington, February 25, 1839.*

I HAVE the honour to acknowledge the receipt of your letter of this day's date, written in reply to a communication which I addressed to you on the 23rd instant, upon the subject of the dispute that has arisen between the Governments of New Brunswick and Maine.

With reference to that portion of your letter which treats of the question of actual jurisdiction, pending the negotiation for the settlement of the disputed boundary, I deeply regret to find that the Government of the United States is now placed directly at variance with the Government of Her Majesty in its understanding of that question.

I shall lose no time in transmitting your letter to Her Majesty's Government, in order that I may be enabled to convey to you, if necessary, a full knowledge of the views and intentions of Great Britain upon this part of the subject. I confine myself, for the present, to protesting, in the most formal manner, against the views set forth in that part of your letter to which I am referring. I adopt this course in preference to entering at once into a detailed discussion of the matter, because, in the first place, I shall best be able to do so after a direct communication with my Government; and, in the second place, because I entertain the hope that an early settlement of the general question of the disputed boundary may render this subordinate point of difference of little moment.

I avail myself of this occasion to renew to you the assurance of my high respect and consideration.

(Signed) H. S. FOX.

Inclosure 3 in No. 5.

# MEMORANDUM.

*Washington, February 27, 1839.*

HER Majesty's authorities consider it to have been understood and agreed upon by the two Governments that the territory in dispute between Great Britain and the United States, on the north-eastern frontier, should remain exclusively under British jurisdiction until the final settlement of the boundary question.

The United States Government have not understood the above agreement in the same sense; but, on the contrary, consider that there has been no agree-

ment whatever for the exercise, by Great Britain, of exclusive jurisdiction over the disputed territory, or any portion thereof; but a mutual understanding that, pending the negotiation, the jurisdiction then exercised, by either party, over small portions of the territory in dispute, should not be enlarged, but be continued merely for the preservation of local tranquillity and the public property; both forbearing, as far as practicable, to exert any authority; and when any should be exercised by either, placing upon the conduct of each other the most favourable construction.

A complete understanding upon the question thus placed at issue (of present jurisdiction) can only be arrived at by friendly discussion between the Governments of the United States and Great Britain; and as it is confidently hoped that there will be an early settlement of the general question, this subordinate point of difference can be of but little moment.

In the mean time the Government of the Province of New Brunswick and the Government of the State of Maine will act as follows: Her Majesty's officers will not seek to expel, by military force the armed party which has been sent by Maine into the district bordering on the Aroostook River; but the Government of Maine will, voluntarily and without needless delay, withdraw, beyond the bounds of the disputed territory, any armed force now within them; and if future necessity shall arise for dispersing any notorious trespassers, or protecting public property from depredation, by armed force, the operation shall be conducted by concert, jointly or separately, according to agreement between the Governments of Maine and New Brunswick.

The civil officers in the service, respectively, of New Brunswick and Maine, who have been taken into custody by the opposite parties, shall be released.

Nothing in this memorandum shall be construed to fortify or to weaken, in any respect whatever, the claim of either party to the ultimate possession of the disputed territory.

The Minister Plenipotentiary of Her Britannic Majesty having no specific authority to make any arrangement on this subject, the Undersigned can only recommend, as they now earnestly do, to the Governments of New Brunswick and Maine, to regulate their future proceedings according to the terms hereinbefore set forth, until the final settlement of the territorial dispute; or until the Governments of the United States and Great Britain shall come to some definite conclusion on the subordinate point upon which they are now at issue.

(Signed) H. S. FOX,

*Her Britannic Majesty's Envoy Extraordinary  
and Minister Plenipotentiary.*

(Signed) JOHN FORSYTH,

*Secretary of State of the United States of America.*

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Inclosure 4 in No. 5.

*Mr. Fox to Sir John Harvey.*

Sir,

*Washington, February 27, 1839.*

I RECEIVED on the 23rd instant, your Excellency's letter of the 13th, containing your Proclamation of that day's date, and conveying to me information of an armed incursion by the people of Maine, into a part of the disputed territory situated on the Restook River.

I herewith transmit to you copies of an official correspondence, which has passed between the Secretary of State of the United States and myself.

You will perceive from this correspondence, that the United States Government is now prepared to deny the existence of an agreement—to the extent as understood by us—respecting the exclusive exercise by Great Britain of jurisdiction over the disputed territory, pending the negotiation for the settlement of the north-eastern boundary.

The two Governments are thus placed pointedly at issue, upon this subordinate branch of the Boundary Question. It is only by direct negotiation and free discussion between them, that a definite understanding upon the point at issue can be arrived at.



In this state of the affair, I think it best becomes us, as the servants of a Sovereign whose generous forbearance is unequalled in the history of nations, to refrain from further action, until time shall have been afforded to Her Majesty's Government, to attempt the adjustment of the difference by friendly means.

Governed by these feelings, I have this day agreed to and signed, with the Secretary of State of the United States, the inclosed Memorandum, containing terms of accommodation which we recommend to the adoption, respectively, of your Excellency and of the Governor of Maine.

I am aware, considering the nature of your instructions, of the grave responsibility which you will incur by acceding to the proposed terms of accommodation; but, I think, that in the present conjuncture such responsibility ought to be fearlessly met; and any share thereof that shall fall upon me, for the advice which I am now giving, I will cheerfully accept.

We shall be making a large and generous concession to the pretensions of the people of Maine, by admitting the question of present jurisdiction to be in any way open and debateable; but I deem the concession worth making, if it enable us to preserve peace honourably between the two countries.

The question of present jurisdiction is after all, from its nature, subordinate and provisional; it will cease to be any question at all as soon as the boundary controversy is determined. And surely it would be a lamentable act of imprudence if, while the two Governments are gravely, and in a friendly spirit, negotiating the general question of disputed boundary, the nations should rush to war in order to decide the inferior point, of which of them shall in the mean time exercise temporary jurisdiction within the district in dispute.

The duplicate of the inclosed memorandum is forwarded to the Governor of Maine who, I have no doubt, under the recommendation of the President, will comply with the terms proposed, if your Excellency shall be willing equally to accede to them.

I have, &c.,  
(Signed) H. S. FOX.

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Inclosure 5 in No. 5.

*Message from the President of the United States upon the subject of the present state of affairs between the State of Maine and the British Province of New Brunswick.*

*To the House of Representatives:*

*Washington, February 26, 1839.*

I LAY before Congress several despatches from his Excellency the Governor of Maine, with inclosures, communicating certain proceedings of the Legislature of that State, and a copy of the reply of the Secretary of State, made by my direction, together with a note from H. S. Fox, Esq., Envoy Extraordinary and Minister Plenipotentiary of Great Britain, with the answer of the Secretary of State to the same.

It will appear from these documents, that a numerous band of lawless and desperate men, chiefly from the adjoining British provinces, but without the authority or sanction of the Provincial Government, had trespassed upon that portion of the territory in dispute between the United States and Great Britain which is watered by the river Aroostook, and claimed to belong to the State of Maine; and that they had committed extensive depredations there, by cutting and destroying a very large quantity of timber. It will further appear that the Governor of Maine, having been officially apprized of the circumstance, had communicated it to the Legislature, with a recommendation of such provisions, in addition to those already existing by law, as would enable him to arrest the course of said depredations, disperse the trespassers, and secure the timber which they were about carrying away; that, in compliance with a Resolve of the Legislature, passed in pursuance of his recommendation, his Excellency had despatched the land agent of the State, with a force deemed adequate to that purpose, to the scene of the alleged depredations, who, after accomplishing a

part of his duty, was seized by a band of the trespassers, at a house claimed to be within the jurisdiction of Maine, whither he had repaired for the purpose of meeting and consulting with the land agent of the province of New Brunswick, and conveyed as a prisoner to Frederickton, in that province, together with two other citizens of the State, who were assisting him in the discharge of his duty.

It will also appear that the Governor and Legislature of Maine, satisfied that the trespassers had acted in defiance of the laws of both countries, learning that they were in possession of arms, and anticipating (correctly, as the result has proved) that persons of their reckless and desperate character would set at naught the authority of the magistrates, without the aid of a strong force, had authorized the sheriff and the officer appointed in the place of the land agent, to employ, at the expense of the State, an armed posse, who had proceeded to the scene of these depredations, with a view to the entire dispersion or arrest of the trespassers, and the protection of the public property.

In the correspondence between the Governor of Maine and Sir John Harvey, Lieutenant-Governor of the province of New Brunswick, which has grown out of these occurrences, and is likewise herewith communicated, the former is requested to recall the armed party advanced into the disputed territory for the arrest of trespassers, and is informed that a strong body of British troops is to be held in readiness to support and protect the authority and subjects of Great Britain in said territory. In answer to that request the Provincial Governor is informed of the determination of the State of Maine to support the land agent and his party in the performance of their duty; and the same determination, for the execution of which provision is made by a resolve of the State Legislature, is communicated by the Governor to the General Government.

The Lieutenant-Governor of New Brunswick, in calling upon the Governor of Maine for the recall of the land agent and his party from the disputed territory, and the British minister in making a similar demand upon the Government of the United States, proceed upon the assumption that an agreement exists between the two nations, conceding to Great Britain, until the final settlement of the Boundary Question, exclusive possession of, and jurisdiction over, the territory in dispute. The important bearing which such an agreement, if it existed, would have upon the condition and interests of the parties, and the influence it might have upon the adjustment of the dispute, are too obvious to allow the error upon which this assumption seems to rest, to pass for a moment without correction. The answer of the Secretary of State to Mr. Fox's note, will show the ground taken by the Government of the United States upon this point. It is believed that all the correspondence which has passed between the two Governments upon this subject has already been communicated to Congress, and is now on their files. An abstract of it, however, hastily prepared, accompanies this communication. It is possible that in thus abridging a voluminous correspondence, commencing in 1825, and continuing to a very recent period, a portion may have been accidentally overlooked; but it is believed that nothing has taken place which would materially change the aspect of the question as therein presented. Instead of sustaining the assumption of the British functionaries, that correspondence disproves the existence of any such agreement. It shows that the two Governments have differed not only in regard to the main question of title to the territory in dispute, but with reference also to the right of jurisdiction, and the fact of the actual exercise of it in different portions thereof. Always aiming at an amicable adjustment of the dispute, both parties have entertained, and repeatedly urged upon each other, a desire that each should exercise its rights, whatever it considered them to be, in such a manner as to avoid collision, and allay, to the greatest practicable extent, the excitement likely to grow out of the controversy. It was in pursuance of such an understanding that Maine and Massachusetts, upon the remonstrance of Great Britain, desisted from making sales of lands; and the General Government, from the construction of a projected military road in a portion of the territory of which they claimed to have enjoyed the exclusive possession; and that Great Britain, on her part, in deference to a similar remonstrance from the United States, suspended the issue of licenses to cut timber in the territory in controversy, and also the survey and location of a railroad through a section of country over which she also claimed to have exercised exclusive jurisdiction.

The State of Maine had a right to arrest the depredations complained of;



it belonged to her to judge of the exigency of the occasion calling for her interference; and it is presumed, that had the Lieutenant-Governor of New Brunswick been correctly advised of the nature of the proceedings of the State of Maine, he would not have regarded the transaction as requiring, on his part, any resort to force. Each party claiming a right to the territory, and hence to the exclusive jurisdiction over it, it is manifest that, to prevent the destruction of timber by trespassers, acting against the authority of both, and at the same time avoid forcible collision between the contiguous Governments, during the pendency of negotiations concerning the title, resort must be had to the mutual exercise of jurisdiction in such extreme cases, or to an amicable and temporary arrangement as to the limits within which it should be exercised by each party. The understanding supposed to exist between the United States and Great Britain has been found heretofore sufficient for that purpose, and I believe will prove so hereafter, if the parties on the frontier, directly interested in the question, are respectively governed by a just spirit of conciliation and forbearance. If it shall be found, as there is now reason to apprehend, that there is, in the modes of construing that understanding by the two Governments, a difference not to be reconciled, I shall not hesitate to propose to Her Britannic Majesty's Government a distinct arrangement for the temporary and mutual exercise of jurisdiction, by means of which similar difficulties may in future be prevented.

But, between an effort on the part of Maine to preserve the property in dispute from destruction by intruders, and a military occupation by that State of the territory, with a view to hold it by force, while the settlement is a subject of negotiation between the two Governments, there is an essential difference, as well in respect to the position of the State as to the duties of the General Government. In a letter addressed by the Secretary of State to the Governor of Maine, on the 1st of March last, giving a detailed statement of the steps which had been taken by the Federal Government to bring the controversy to a termination, and designed to apprise the Governor of that State of the views of the Federal Executive in respect to the future, it was stated, that while the obligations of the Federal Government to do all in its power to effect the settlement of the Boundary Question were fully recognised, it had, in the event of being unable to do so specifically, by mutual consent, no other means to accomplish that object amicably than by another arbitration, or by a Commission with an umpire in the nature of an arbitration; and that, in the event of all other measures failing, the President would feel it his duty to submit another proposition to the Government of Great Britain to refer the decision of the question to a third Power. These are still my views upon the subject; and, until this step shall have been taken, I cannot think it proper to invoke the attention of Congress to other than amicable means for the settlement of the controversy, or to cause the military power of the Federal Government to be brought in aid of the State of Maine, in any attempt to effect the object by a resort to force.

On the other hand, if the authorities of New Brunswick should attempt to enforce the claim of exclusive jurisdiction set up by them, by means of a military occupation on their part, of the disputed territory, I shall feel myself bound to consider the contingency provided by the constitution as having occurred; on the happening of which, a State has the right to call for the aid of the Federal Government to repel invasion.

I have expressed to the British Minister near this Government a confident expectation that the agents of the State of Maine, who have been arrested under an obvious misapprehension of the object of their mission, will be promptly released; and to the Governor of Maine, that a similar course will be pursued in regard to the agent of the province of New Brunswick. I have also recommended that any militia that may have been brought together by the State of Maine, from an apprehension of a collision with the Government or people of the British province, will be voluntarily and peaceably disbanded.

I cannot allow myself to doubt that the results anticipated from these representations, will be seasonably realized. The parties more immediately interested cannot but perceive that an appeal to arms, under existing circumstances, will not only prove fatal to their present interests, but would postpone, if not defeat, the attainment of the main objects which they have in view. The very incidents which have recently occurred will necessarily awaken the Governments

to the importance of promptly adjusting a dispute, by which it is now made manifest that the peace of the two nations is daily and imminently endangered. This expectation is further warranted by the general forbearance which has hitherto characterized the conduct of the Governments and people on both sides of the line. In the uniform patriotism of Maine, her attachment to the Union, her respect for the wishes of the people of her sister States, (of whose interest in her welfare she cannot be unconscious,) and in the solicitude felt by the country at large for the preservation of peace with our neighbours, we have a strong guarantee that she will not disregard the request that has been made of her.

As, however, the session of Congress is about to terminate, and the agency of the Executive may become necessary during the recess, it is important that the attention of the Legislature should be drawn to the consideration of such measures as may be calculated to obviate the necessity of a call for an extra session. With that view, I have thought it my duty to lay the whole matter before you, and to invite such action thereon as you may think the occasion requires.

(Signed) M. VAN BUREN.

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Inclosure 6 in No. 5.

*The Governor of Maine to the President of the United States.*

Sir,

*Executive Department, Augusta, February 18, 1839.*

I HAVE the honour herewith to inclose the Governor's message to the Legislature of this State on the 24th ultimo; resolve of the Legislature thereon; message of the 13th instant, and resolve of the same date; message of the 18th instant, and resolves passed by the House of Representatives of the same date; a proclamation issued by Sir John Harvey, Lieutenant-Governor of New Brunswick, on the 13th instant; and a letter received by express from him this morning, also dated February 13.

By these papers you will learn that the Honourable Rufus McIntire, while engaged in the service of this State, as land agent, in endeavouring to expel, from lands bordering on the Aroostook River in this State, a body of armed men, principally from the British provinces, who were engaged in cutting the timber, in defiance of the authorities of this State, has been seized, with Gustavus G. Cushman and Thomas Bartlett, Esquires, who were aiding the land agent in this service, and have been transported to Fredericton, the capital of New Brunswick. The manner in which this was done I have described in my message to the Legislature of this day. It was, to say the least of it, grossly insulting to Mr. McIntire, and is such an indignity to the State and the nation as cannot and ought not to be submitted to. These gentlemen have been seized upon territory which is regarded by Maine as having always been within her exclusive possession and jurisdiction, as will appear by a few of the facts alluded to in my message.

You will perceive, by the proclamation and letter of Sir John Harvey, that he assumes the extraordinary position that the British Government, by an agreement with the Government of the United States, is entitled to the exclusive possession and jurisdiction of the whole disputed territory until the question of right shall be settled; and that he has ordered out a large military force to expel the party in the service of the land agent from the territory, calling the proceeding on our part an invasion of Her Majesty's province of New Brunswick. In this state of things, I have to inform your Excellency that our citizens, now upon this territory, engaged in the service of the State, will not leave it without accomplishing their object, unless compelled to do so by a superior force; that one thousand draughted militia will march for the Aroostook on Wednesday, the 21st instant, to aid and assist the land agent in carrying into effect the resolve of the 24th of January. I shall also forthwith proceed to order a further draught of the militia of at least ten thousand men, who will hold themselves in instant readiness to march. Such further measures as it may be found necessary to



take, to maintain the rights of this State in the premises, I assure your Excellency I shall not fail to take, and that with as much promptness as circumstances will permit.

These, in brief, (in conjunction with the statements in the papers inclosed,) are the facts in the case; and, if I do not misconceive them, they authorize me to call upon the General Government, which I do, for that aid and assistance which the whole States have guaranteed to each in such an emergency.

In a case of such deep and vital interest to this State, I feel confident that you will not only rightly appreciate the common feeling of our citizens, but that you will act with that promptness and efficiency which our peculiar position demands.

I have not time to enter more at large into the circumstances of the case. John D. McCrate, Esq., the bearer of these Despatches, will communicate such further information as your Excellency may be desirous of obtaining.

I will only add, that in this State there is but one feeling upon this subject; and that is, of deep indignation at the outrages that have been perpetrated, and of a fixed and unyielding determination not to submit to the degrading terms proposed by the Lieutenant-Governor of New Brunswick—that of withdrawing from the Aroostook territory, and abandoning our soil to foreigners, and our property to a band of armed plunderers.

I have, &c.,  
(Signed) JOHN FAIRFIELD,  
Governor of Maine.

#### Inclosure 7 in No. 5.

*Message from the Governor of Maine to the Senate and House of Representatives.*

*Council Chamber, January 23, 1839.*

ON the 14th of December, 1838, the land agents of Massachusetts and of this State appointed George W. Buckmore to proceed to the Aroostook and Fish Rivers, for the purpose of preventing, as far as he was able, any trespassing upon the public land. Mr. Buckmore has just returned from those places, and made a report, which has been communicated to the Governor and Council, and is herewith laid before you for your consideration.

By this report it appears that a large number of men, (many of them, I am informed, from the British provinces,) are trespassing very extensively upon the lands belonging to this State; that they not only refuse to desist, but defy the power of this Government to prevent their cutting timber to any extent they please. Upon the Grand River it is estimated there are from forty to fifty men at work. On Green River, from twenty to thirty. On Fish River, from fifty to seventy-five men, with sixteen yoke of oxen and ten pair of horses, and more daily expected to go in. On township letter H, ten men, with six oxen and one pair of horses. On the little Madawaska, seventy-five men, with twenty yoke of oxen and ten horses. At the Aroostook falls, fifteen men, with six yoke of oxen. The quantity of timber which these trespassers will cut the present winter is estimated in value, by the land agent, at 100,000 dollars.

These facts, it seems to me, present a case in which not merely the property, but the character of the State is clearly involved. The supremacy of law, as well as the sanctity of right, cannot thus be contemned and set at naught with impunity, without impairing the general authority of the Government, and inviting renewed aggressions on the part of daring and lawless men.

Conduct so outrageous and high-handed as that exhibited by these reckless depredators upon the public property, calls for the most prompt and vigorous action of this Government.

Under these circumstances, therefore, I would recommend that the land agent be instructed forthwith to proceed to the place of operation on the Aroostook, and also upon Fish River, if practicable, with a sufficient number of men suitably equipped, to seize the teams and provisions, break up the camps, and disperse those who are engaged in this work of devastation and pillage. The

number suggested by the land agent as sufficient for this purpose is fifty. This estimate is probably too small.

The land agent, under the law of 1831, may perhaps be invested with sufficient authority for this purpose. But, considering that it would be an extraordinary measure, and would involve considerable expense, for which there should be an appropriation, it was deemed best to ask the sanction of the Legislature.

It is not to be supposed that the Provincial Government wink at these lawless proceedings on the part of its citizens. On the contrary, we are bound to believe that it would be as willing as this Government to have them arrested. Be it as it may, we are bound by every consideration of duty to ourselves and to those who have confided their interests to our care, to take some strong, decisive, and efficient measures in a case of so flagrant a character. Nothing else will save our beautiful and valuable forests from destruction and plunder.

I have deemed it expedient to make this communication to you confidentially, under the impression that if your proceedings should be communicated to the trespassers before the land agent was prepared to go in, they would combine their forces, and render any attempt to break them up more difficult, if not more dangerous.

(Signed) JOHN FAIRFIELD.

Inclosure 8 in No. 5.

# STATE OF MAINE.

## *Resolve relating to trespassers upon the public lands.*

*Resolved*,—That the land agent be, and is hereby, authorized and required to employ forthwith sufficient force to arrest, detain, and imprison all persons found trespassing on the territory of this State, as bounded and established by the Treaty of 1783; and that the land agent be, and is hereby, empowered to dispose of all the teams, lumber, and other materials in the hands and possession of the trespassers, in such way and manner as he may deem necessary and expedient at the time, by destroying the same or otherwise; and that the sum of ten thousand dollars be, and hereby is, appropriated for the purpose of carrying this resolve into effect; and that the Governor, with the advice of the Council, be, and is hereby, authorized to draw his warrant, from time to time, for such sums as may be required for the purpose aforesaid.

*In the House of Representatives, January 23, 1839.*

This resolve having had two several readings, and the engrossing of the same dispensed with, finally passed. Sent up for concurrence.

(Signed) H. HAMLIN, *Speaker*.

*In Senate, January 23, 1839.*

This resolve having had two several readings, and the engrossing of the same dispensed with, was finally passed in concurrence.

(Signed) JOB PRINCE, *President*.

January 24, 1839. Approved: (Signed) JOHN FAIRFIELD.

# STATE OF MAINE.

*Secretary's Office, Augusta, February 18, 1839.*

I HEREBY certify that the foregoing is a true copy of the original deposited in this office.

Attest: (Signed) A. R. NICHOLLS,  
*Secretary of State.*



Inclosure 9 in No. 5.

*Message of the Governor of Maine to the House of Representatives.*

*Council Chamber, February 15, 1839.*

IN compliance with the request of the House of Representatives, I herewith communicate such information as I have in relation to the "reported abduction of the land agent."

Under the resolve of the 24th of January last, entitled "a Resolve relating to trespassers upon the public lands," the land agent repaired, with about two hundred chosen men, to the scene of operations, on the Aroostook River. Prior to his reaching there, it is understood that the trespassers, amounting to about three hundred in number, all well armed, had combined and were determined to resist every effort that should be made to break them up. Finding, however, that the land agent had prepared himself with a brass six-pounder, they chose to retire from the ground, passing down the river.

The land agent, with his company, also passed down the Aroostook to near its mouth, finding the several places of operation abandoned by the trespassers. On Monday last they captured a gang of about twenty, who had been operating further up the river, and sent several, who were considered the ring-leaders, to Bangor, where it is supposed they are now in jail.

On Monday the land agent sent a letter to Mr. Maclauchlan, the land agent for the province of New Brunswick, inviting a meeting with him at the house of a Mr. Fitzherbert, about four miles from where our company were then stationed; and on the same evening, in company with four others, Mr. McIntire repaired to the house of Mr. Fitzherbert, intending to pass the night there. The trespassers, however, having in some way become possessed of the facts, detached a company of about fifty, seized the agent and those accompanying him, and transported them, it is believed, beyond the bounds of the State.

The company is now at No. 10, on the Aroostook, fortified, and anticipating an attack, in case any attempt should be made on our part to execute the Resolve of the 24th of January, by destroying the timber which has already been cut.

I have advised the sending in a reinforcement of three hundred men, as it is probable that the number of the trespassers will be constantly augmenting; and, if a resolve to that effect be passed, shall appoint an agent to supply, temporarily, the place of Mr. McIntire, and lead on the expedition.

I have also despatched a special messenger to Sir John Harvey, Lieutenant-Governor of New Brunswick, for the purpose, among other things, of ascertaining whether these high-handed proceedings of the trespassers are authorized, or in any way countenanced by the Provincial Government; and to procure the release of the agent and those taken with him. The agent was also charged with other matters pertaining to this most extraordinary and outrageous proceeding.

The facts above related, except in relation to my own doings, have been communicated to me verbally by the Sheriff of Penobscot, who formed one of the company of the land agent.

This is the only communication from the land agent or his company which I have had, verbally or otherwise, that could be relied upon.

(Signed) JOHN FAIRFIELD.

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Inclosure 10 in No. 5.

STATE OF MAINE.

*Resolve in relation to the North-Eastern Boundary.*

*Resolved*, That the Governor be authorized to appoint, when circumstances in his opinion require it, some person or persons to supply, temporarily, the place of the land agent, in executing the Resolve of the 24th of January last, relating to trespassers on the public lands. And the person or persons thus appointed shall, for the time being, have all the power, and be subject to all the duties of the land agent, so far as it regards the resolve aforesaid.

*In the House of Representatives, February 16, 1839.* Read and passed.

(Signed) H. HAMLIN, *Speaker*.

*In Senate, February, 16, 1839.* Read and passed.

(Signed) JOHN PRINCE, *President*.

*February, 16, 1839.* Approved: (Signed) JOHN FAIRFIELD.

*State of Maine, Secretary's Office, Augusta, February 18, 1839.*

I HEREBY certify that the foregoing is a true copy of the original on file in this office.

Attest: (Signed) A. R. NICHOLLS, *Secretary of State*.

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Inclosure 11 in No. 5.

*Message of the Governor of Maine to the Senate and House of Representatives.*

*Council Chamber, February 18, 1839.*

SINCE my last communication to you upon the subject of the trespasses upon the public lands, there has been forwarded to me a proclamation purporting to have been issued by the Lieutenant-Governor of the province of New Brunswick, which I deem it my duty to communicate to you, with a statement of my proceedings consequent thereon.

By this proclamation, it seems that while the Lieutenant-Governor disavows any authority from his Government for the seizure of the land agent, he yet speaks of the attempt of the civil authorities of this State to drive a band of armed trespassers off our public lands as "an outrage" and an invasion of the territory of the province of New Brunswick; and avows the fact of having ordered "a sufficient military force" to repair to the place where the land agent's party are endeavouring to execute your Resolve of the 24th of January, and to repel what he thus regards as an invasion of the province of New Brunswick.

Immediately upon the receipt of this extraordinary document, I took measures to hasten the departure of the land agent's party, understood to have been assembled at Bangor, awaiting orders, and numbering between four and five hundred men; and also issued an order to Major-General Isaac Hodsdon, of the third division, to detach one thousand men, by draught or otherwise, properly officered and equipped, who were to rendezvous at Bangor, and then proceed, at the earliest possible moment, to the place occupied by the land agent's party, on or near the Aroostook River, there to render such aid as would enable the land agent to carry into effect the Resolve of the 24th of January.

I also despatched a special messenger with a communication to Major Kirby, of United States Artillery, commanding at Hancock barracks, Houlton, informing him of the facts, and asking his co-operation with the troops under his command with the forces of this State in repelling an invasion of our territory, and sustaining our citizens in the lawful and authorized protection they are endeavouring to extend over a portion of the property of the State.

If these proceedings on my part meet the approbation of the Legislature, and an appropriation be made for the purpose, I shall feel it to be my duty to proceed forthwith to order a draught from the militia of at least ten thousand



men, who will hold themselves in instant readiness to march to the frontier, should circumstances require it.

I have not yet called upon the President of the United States for aid in repelling the invasion of our territory by foreign troops, deeming it proper to postpone that step until the return of Colonel Rogers from his special mission to Frederickton, or at least until some information should be received from him, which will, probably, be as early as the 20th or 21st inst. If, however, you should think otherwise, and that no delay should be allowed for this purpose, an intimation to that effect will be promptly obeyed.

If I have not entirely misconceived the circumstances of the case presented for your consideration, it is one calculated to excite the deepest feeling in the breasts of our citizens, and calls for the most prompt and determined action on the part of this Government. What is that case? You were informed that a large number of armed and desperate men, from a neighbouring province, had forced themselves into the territory of this State, with a fixed purpose of cutting a vast amount of timber, and of resisting, even unto blood, any attempts to arrest them in the prosecution of their unhallowed object. Deeming it your duty to make an effort to protect the interests of those who had confided them to your care, you instructed the land agent to proceed to the scene of devastation and plunder with a sufficient force to arrest those who were engaged in it, and to break up their daring and wicked enterprise. While in the act of executing this order, the land agent was seized, transported beyond the bounds of the State, and finally carried *upon a sled*, like a felon, and under the guard of provincial troops, to the capital of New Brunswick, for trial. Could a greater indignity be offered to any people having a particle of sensibility to its rights and its honour, or to the sacredness of the personal liberty of its citizens? It is true that the Lieutenant-Governor denies that the original seizure was by authority. But at Woodstock the *magistrates* took cognizance of the affair; sanctioned the proceedings by issuing a warrant, (acting, undoubtedly, under the authority of the proclamation,) and sending our citizens under an ignominious escort to Frederickton. Really if there be any apology or justification for this treatment of our citizens, it is not to be found in any code of international honour or comity with which I have been acquainted.

Not only this, but it seems that a military force is sent into a part of the territory of this State, to expel from it a civil force sent there by this Government for the protection of its property. How long are we thus to be trampled upon; our rights and claims derided; our power contemned; and the State degraded? If there ever was a time when the spirit of independence and self-respect should assert itself, that time is the present. We cannot tamely submit to be driven from our territory while engaged in the civil employment of looking after and protecting our property, without incurring a large measure of ignominy and disgrace.

No palliating circumstance for this outrage can be found in even a pretence that the place where it was committed is within the concurrent jurisdiction of the two Governments, much less that the British Government have had exclusive jurisdiction. Lands even higher up, and beyond this, were surveyed and granted by the State of Massachusetts more than thirty years ago; and Massachusetts and Maine have long been in the habit of granting permits to cut timber upon these Aroostook lands without being, to my knowledge, molested from any quarter, to say nothing of the sales and actual occupation of the land itself.

It must be gratifying to all who have a true sense of the honour and interests of the State to perceive that, upon this subject, the din of party warfare is hushed, and that a unanimity has prevailed alike honourable and patriotic. No interruption to this commendable spirit, I trust, will, be suffered. Union and good feeling, no less than prudence and energy, are absolutely necessary in this extraordinary emergency.

(Signed) JOHN FAIRFIELD.

Since writing the foregoing, I have received a communication from the Lieutenant-Governor of the province of New Brunswick, in which he sets up an alleged agreement that the British Government shall have exclusive jurisdiction and possession of the disputed territory until the question be set-

tled; and informs us that he is instructed not to suffer any interference with that possession and jurisdiction. He entreats us to withdraw the land agent's party, and adds, that he has directed a strong force of "Her Majesty's troops to be in readiness to support Her Majesty's authority, and protect Her Majesty's subjects in the disputed territory, in the event of this request not being immediately complied with."

In regard to all this, I have only to say that, for one, I see no reason to doubt the entire correctness of the course we have thus far pursued, and that, with the blessing of God, I trust we shall persevere.

No such agreement as that alluded to by the Lieutenant-Governor can be recognised by us; and it is an entire misapprehension, to say the least of it, that such an agreement has ever been made.

The letter having been written before Mr. McIntire reached Frederickton, no official communication is made as to the course intended to be pursued in regard to him and those arrested with him. I learn, however, indirectly, that they are to be retained.

I am informed that the land agent's party have stationed themselves, for the present, at the termination of the Aroostook road. While there, Mr. Mac- lauchlan, the provincial land agent, presented himself, and, in the name of Her Majesty, warned the party to disperse. Mr. Mac- lauchlan and his two assistants were, thereupon, taken into custody; and the agent, with one assistant, immediately sent to Bangor, where they are now detained.

Copies of the proclamation and letter of the Lieutenant-Governor of New Brunswick are herewith communicated.

(Signed) JOHN FAIRFIELD.

Inclosure 12 in No. 5.

*Resolves of the Legislature of Maine.*

STATE OF MAINE.

*An additional Resolve relating to trespassers upon the public lands.*

*Resolved*,—That the Governor be requested forthwith to communicate to the President of the United States the measures recently adopted by the State of Maine in relation to the trespasses on the public lands of this State, and also copies of the correspondence between the Governor of New Brunswick and the Executive of Maine, in relation to those measures, together with any information in his possession relative to the subject; and to request the aid of the General Government in support of the rights of the State of Maine.

*House of Representatives, February 18, 1839.*

THIS resolve having had two several readings, passed to be engrossed. Sent up for concurrence.

(Signed) CHARLES WATERHOUSE, *Clerk*.

STATE OF MAINE.

*Resolve for the protection of public lands.*

*Resolved*,—That the honour and interest of this State demand that a sufficient military force be forthwith stationed on the Aroostook River, west of the boundary-line of the State, as established by the Treaty of 1783; and on the River St. John, if found practicable, at such points as may be best adapted to the object, to prevent further depredations on the public lands, and to protect and preserve the timber, and other lumber already cut there by trespassers, and to prevent its removal without the limits of the State.

*Resolved*,—That the sum of eight hundred thousand dollars be, and hereby is, appropriated for the purpose of enabling the Executive to carry out the purposes of the foregoing Resolve, and the Resolve passed January 24, 1839; and that the Governor be, and hereby is, authorized, with the advice of Council,



to draw his warrant for the same, from time to time, as it may be needed for that purpose.

*House of Representatives, February 18, 1839.*

I HEREBY certify that the foregoing resolves this day passed to be engrossed by an unanimous vote; one hundred and fifty members having voted thereon.

(Signed) CHARLES WATERHOUSE, *Clerk.*

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Inclosure 13 in No. 5.

By his Excellency Major-General Sir JOHN HARVEY, K.C.B. and K.C.H.,  
Lieutenant-Governor and Commander in Chief of the province of New Brunswick, &c.

#### A PROCLAMATION.

[See Inclosure 2 in No. 4, page 19.]

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Inclosure 14 in No. 5.

*Sir John Harvey to the Governor of Maine.*

*Government House, Frederickton,*

*(New Brunswick,) February 13, 1839.*

Sir,

I HAVE just heard, with the utmost surprise and regret, that, without the courtesy of any previous intimation whatever to this Government, an armed force from the State of Maine has entered the territory, the claim to which is in dispute betwixt Great Britain and the United States, and which it has been agreed betwixt the two General Governments shall remain in the exclusive possession and jurisdiction of England until that claim be determined.

It has been my duty, on more than one occasion, to apprise the Executive Government of Maine that my instructions do not permit me to suffer any interference with that possession and jurisdiction, until the question of right shall have been finally decided in discussion betwixt the two General Governments.

With the knowledge of these instructions thus explicitly made known, I cannot but repeat the expression of the deep regret which I feel, that, instead of seeking their recall or modification through the Presidential Government, the State of Maine should thus have forced upon a subordinate officer the alternative of either failing in his duty, by abstaining from the fulfilment of the commands of his sovereign, or, by acting up to them, placing the two countries in a state of border collision, if not the two nations in immediate and active hostility.

Such, nevertheless, is the position in which I find myself placed by this overt act on the part of the State of Maine; one from which I do not hesitate in entreating your Excellency to relieve me, by ordering the immediate recall of a force whose presence within the precincts of the territory as claimed by England it is contrary to my instructions to permit. And it is proper that I should acquaint your Excellency that I have directed a strong force of Her Majesty's troops to be in readiness to support Her Majesty's authority, and to protect Her Majesty's subjects in the disputed territory, in the event of this request not being immediately complied with.

With regard to any plea for these proceedings on the part of the State of Maine, connected with timber spoliations in that territory, I have to inform your Excellency that I have given directions for a boom to be placed across the mouth of the Aroostook, where the seizing officer, protected by a sufficient guard, will be able to prevent the passage of any timber into the St. John in the spring, or to seize it and expose it to public sale, for the benefit of the "disputed territory fund."

Similar precautions will be adopted in regard to any timber cut upon the Upper St. John, or the tributary streams falling into it.

Anxiously awaiting your Excellency's reply to this communication,

I have, &c.,  
(Signed) J. HARVEY.

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## Inclosure 15 in No. 5.

*The Governor of Maine to the President of the United States.*

Sir,

*Executive Department, Augusta, February 19, 1839.*

YESTERDAY I had the honour to inclose you certain papers relating to the difficulties which have arisen upon our north-eastern frontier, with a brief statement of the facts.

I have now the honour to inclose you my reply to the letter of the Lieutenant-Governor of New Brunswick, under date of the 13th instant, and resolves passed by both branches of our Legislature.

I would further inform your Excellency that, by a communication just received from Major Kirby, of the United States artillery, commanding at Hancock barracks, Houlton, I learn that "the 36th Regiment, from a West India station, has arrived in the province;" that, "on the 16th instant, one company of that regiment passed Woodstock, destined to the mouth of the Aroostook;" that, "this morning (the 18th) another company followed; the whole under the command of Colonel Maxwell," &c. He adds, as a rumour, that "one of the regiments which recently passed through to Canada is ordered back, and that two more regiments are daily expected from the West Indies."

The Honourable Rufus McIntire is still detained by the provincial authorities at Fredericton.

Under these circumstances, I cannot but entertain the belief that as many regiments of United States troops as can possibly be spared from other service will be ordered forthwith to our frontier, and that Major Kirby will also receive orders to co-operate with the forces of this State in repelling an invasion of our territory.

Without time to add more, I subscribe myself, with assurances of high respect, your Excellency's obedient servant.

(Signed)

JOHN FAIRFIELD,

*Governor of Maine.*

## Inclosure 16 in No. 5.

*The Governor of Maine to Sir John Harvey.*

Sir,

*Executive Department, Augusta, February 19, 1839.*

I HAVE the honour to acknowledge the receipt of your Excellency's letter of the 13th instant, by express; and avail myself of the return of your messenger, R. English, Esq., to make a reply.

You say, "I have just heard, with the utmost surprise and regret, that, without the courtesy of any previous intimation whatever to this Government, an armed force from the State of Maine has entered the territory, the claim to which is in dispute," &c.

In reply, I cannot but regret that your Excellency should have thought the use of such language suitable to be employed upon this occasion. If I am amenable to a charge of want of "courtesy" in any thing I have heretofore done, I will endeavour to manifest enough of that accomplishment in this reply, not to bandy epithets with one of whom I had formed so high an opinion as of your Excellency; and will only say further, that, while I have the honour to hold the place I now occupy, I trust that a sense of duty to my State and her interests will always predominate over a mere blind regard to the artificial rules of etiquette. I think, however, that your Excellency would not have used that term, if you had considered for a moment that the proceedings of our land agent were in execution of a Resolve of the Legislature of this State, adopted in *secret session*; and that no notice of these proceedings could have been given without an unqualified breach of faith and duty.

In speaking of the disputed territory, your Excellency says: "the claim to which is in dispute betwixt Great Britain and the United States, and which, it has been agreed betwixt the two General Governments, shall remain in the exclusive possession and jurisdiction of England until that claim shall be determined."

Now, Sir, I cannot hesitate to say that, in my opinion, your Excellency is



labouring under an entire misapprehension in regard to the facts. No such agreement, I am persuaded, has ever been made between the two Governments. I have looked in vain for it among the numerous documents which have grown out of this question, and have never heard of any recognition of it, verbal or otherwise, on the part of the officers of the General Government. If, however, such an agreement exists, your Excellency can undoubtedly point it out. At all events, such an agreement can never be recognised by this State. A decent self-respect will ever forbid it, if there were no other considerations in the way.

Your Excellency entreats me immediately to recall the force now upon the territory ; and then adds, " It is proper that I should acquaint your Excellency that I have directed a strong force of Her Majesty's troops to be in readiness to support Her Majesty's authority, and to protect Her Majesty's subjects in the disputed territory, in the event of this request not being immediately complied with."

In reply, I have to say that the territory bordering upon the Aroostook River has always been, as I regard the facts, in the possession and under the jurisdiction of Massachusetts and Maine ; that more than thirty years ago, Massachusetts surveyed and granted large tracts of it, which have ever since been, in some way, possessed by the grantees, and those claiming under them ; that the rest of it was surveyed by, and some of it divided between Massachusetts and Maine, soon after the latter became an independent State ; that both States have long been in the habit of granting permits to cut timber there without being molested from any quarter ; that many persons have purchased these lands of Maine, and entered into their actual occupation, and that in various other ways Maine has exercised a jurisdiction which may fairly be regarded as exclusive over this territory. Under these circumstances, information was received that a body of armed men had gone into this territory, and were cutting vast quantities of the timber, defying the power of this State to prevent them. On these facts being communicated to the Legislature, the two branches immediately directed the land agent to take with him a sufficient force to arrest these depredators and to break up their enterprise. The party of the land agent is now in the territory, engaged in executing the trust with which it was charged, and, with my consent, will never leave it while the protection of the property of the State from plunderers renders it necessary for them to remain. If your Excellency chooses to send an armed force to attempt their expulsion, I can only say that this State will endeavour to meet such an attempt as it will deserve. I have no threats to make, no boastings to indulge. If Maine does her duty, as I trust in God she will, nothing that I could say in advance would add to the glory of her career. If she proves recreant to her duty, and tamely submits to be expelled from her territory by a force that she could successfully resist, nothing that I can say would tend to diminish the measure of her ignominy and disgrace.

I have, &c.,

(Signed) JOHN FAIRFIELD,  
Governor of Maine.

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Inclosure 17 in No. 5.

#### STATE OF MAINE.

##### *Resolve for the protection of the public lands.*

*Resolved*,—That the honour and interest of this State demand that a sufficient military force be forthwith stationed on the Aroostook River, west of the boundary-line of the State, as established by the Treaty of 1783 ; and on the river St. John, if found practicable, at such points as may be best adapted to the object, to prevent further depredations on the public lands, and to protect and preserve the timber and other lumber already cut there by trespassers, and to prevent its removal without the limits of the State.

*Resolved*,—That the sum of eight hundred thousand dollars be, and hereby is, appropriated for the purpose of enabling the Executive to carry out the purposes of the foregoing Resolve, and the Resolve passed January 24, 1839 ; and that the Governor be, and hereby is, authorized, with the advice of Council, to draw his warrant for the same, from time to time, as it may be needed for that purpose.

*House of Representatives, February 18, 1839.*

THIS resolve having had two several readings, passed to be engrossed.  
Sent up for concurrence. (Signed) CHARLES WATERHOUSE, *Clerk.*

*In Senate, February 19, 1839.*

THIS resolve having had two several readings, passed to be engrossed, in  
concurrence. (Signed) WILLIAM TRAFTON, *Secretary.*

A true copy. Attest: (Signed) WILLIAM TRAFTON,  
*Secretary of the Senate.*

Inclosure 18 in No. 5.

*The Secretary of State to the Governor of Maine.*

Sir, *Department of State, Washington, February 26, 1839.*

IN acknowledging, by direction of the President, your communications to him of the 18th and 19th instant, on the subject of recent occurrences in the disputed territory, and the proceedings of the authorities of Maine and New Brunswick growing out of them, I have the honour to communicate to your Excellency copies of a message this day transmitted by the President to Congress, and of a note from the British Minister, with my answer.

From the last-mentioned paper, it will be perceived that the President entirely concurs with your Excellency in denying the existence of any such agreement between the United States and Great Britain as that appealed to on behalf of the latter, and supposed to give her, pending the Boundary Question, exclusive jurisdiction over the territory in dispute. It is hoped that, in consequence of the representations upon this head, conveyed through my note to Mr Fox, to the authorities of New Brunswick, any further advance of British troops towards or into the territory will be suspended; that this will be the signal for the cessation of all military array and movements on both sides of the line, and for the simultaneous release of the agents of the respective parties now in custody; and that the renewed efforts now making to effect an amicable adjustment of the principal difference will, at an early day, be successful.

If, unfortunately, the President should be disappointed in this expectation, your Excellency may rest assured of the disposition and readiness of the Executive branch of the Government of the United States to perform such further duties as may be imposed upon him by circumstances.

Looking, in the mean time, to a satisfactory termination of present difficulties, the President instructs me to suggest to your Excellency the expediency of a mutual understanding between the authorities of Maine and those of New Brunswick, for the prevention of further depredations upon the territory in dispute. Such an understanding, dictated by a proper spirit of forbearance, and the mutual desire for the preservation of peace which is supposed to prevail on both sides of the line, might, it is believed, be easily effected, with an express reservation that it should not be so construed as to impair the right of the parties, whether to the actual proprietary title or the temporary jurisdiction of either over the disputed territory, or any portion of it. No objection is perceived to this course. Should the Governor of New Brunswick be disposed to acquiesce, it may be, as to its duration, until the decision of the British Government in the matter can be obtained; and if, for reasons which cannot be apprehended, an arrangement of the character referred to should prove impracticable with the local authorities, the President, on being informed thereof, will use endeavours to make such an arrangement with the Government of Great Britain. It would be lamentable, indeed, and present a singular spectacle, if, while the parties to whom it belongs to adjust the main point in controversy are engaged in discussions, with a sincere desire to bring them to a satisfactory result, the peace of the country, and the real and best interests of the people more directly concerned, were to be involved by disagreements between the local authorities upon points of secondary importance, and susceptible, as it is believed, of being easily reconciled. It would produce consequences which the nation at large could not but deplore, and which, the President believes, the Government and people of Maine are as anxious as he is to use every effort to avert.

I have, &c.,

(Signed) JOHN FORSYTH.



Inclosure 19 in No. 5.

*Mr. Fox to Mr. Forsyth.*

*Washington, February 23, 1839.*

[See Inclosure 4 in No. 4, page 20.]

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Inclosure 20 in No. 5.

*Mr. Forsyth to Mr. Fox.*

*Department of State, Washington, February, 25, 1839.*

[See Inclosure 1 in No. 5, page 24.]

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Inclosure 21 in No. 5.

*Mr. Fox to Mr. Forsyth.*

*Washington, February 25, 1839.*

[See Inclosure 2 in No. 5, page 26.]

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Inclosure 22 in No. 6.

*Message of the Governor of Maine to the House of Representatives.*

*Council Chamber, February 21, 1839.*

UNDER the order of the House of Representatives of the 19th instant, I herewith lay before you certain correspondence since had with the Lieutenant-Governor of New Brunswick, and the correspondence between George Fred. Street, Esq., Solicitor-General for the province of New Brunswick, and Charles Jarvis, Esq., provisional land agent of this State.

The reply of Mr. Jarvis to the inadmissible and preposterous claims and pretensions of Her Majesty's Solicitor-General for the province of New Brunswick, must, I think, command the unqualified approbation of every one having a just regard for the honour of his State. It is in the true spirit. And I have every reason to believe that the same spirit animates the whole body of our citizens. While it prevails, though success will be deserved, defeat can bring no disgrace.

You will see by the accompanying papers, and I take great pleasure in communicating the fact, that Mr. McIntire and his assistant have been released. It was, however, upon their parole of honour to return when thereto required by the Government of that province. Immediately upon the receipt of this information, I advised the release of James Maclauchlan, Esq., provincial land agent, and his assistant, upon the same terms.

Since my last communication the land agent's forces at the Aroostook have been reinforced by about 600 good and effective men, making the whole force now about 750.

I have a letter from Mr. Jarvis, dated the 19th, before the reinforcement had arrived, and when his company consisted of only about 100 men. He says he "found the men in good spirits, and that they had been active in making temporary, but most effectual, defences of logs," &c.

After describing his defences, he says: "By to-morrow noon a force of 100 men would make good our position against 500. Retreating, therefore, is out of the question; we shall make good our stand against any force that we can reasonably expect would be brought against us." He says, further; "I take pleasure in saying to you that a finer looking set of men I never saw than those now with me, and that the honour of our State, so far as they are concerned, is in safe keeping."

The draught of 1,000 men from the third division has been made with great despatch. The troops, I understand, arrived promptly at the place of rendezvous at the time appointed, in good spirits, and anxious for the orders to march to the frontier. The detachment from the second division will be

ordered to march at the earliest convenient day ; probably on Monday next. Other military movements will be made, which it is unnecessary to communicate to you at this time.

The mission of Colonel Rogers to the Lieutenant-Governor of New Brunswick has resulted successfully, so far as relates to the reclaim of the land agent and his assistant, and has been conducted in a manner highly satisfactory.

(Signed)

JOHN FAIRFIELD.

Inclosure 23 in No. 5.

*Sir John Harvey to Governor Fairfield.*

Sir,

*Government House, Fredericton, (N. B.,) February 18, 1839.*

I HAVE the honour to acknowledge the receipt, by the hands of the honourable Mr. Rogers, of your Excellency's letter of the 15th inst. Mr. McIntire, and the gentlemen with him, have been subjected to an examination before Her Majesty's Attorney-General of this province, who has reported to me that the offence of which they stand charged is one rather against the laws of nations, and of treaties, than against those of this province, they must accordingly be regarded as "state offenders." In this view, their disposal rests exclusively with Her Majesty's Government, to which I shall accordingly report the case ; in the mean time, I have had the pleasure in directing that they shall be immediately allowed to return to the State of Maine, upon pledging their parole of honour to present themselves to the Government of this province, whenever Her Majesty's decision may be received, or when required to do so. The high respectability of their characters and situations, and my desire to act, in all matters relating to the disputed territory, in such a manner as may evince the utmost forbearance consistent with the fulfilment of my instructions, have influenced me in my conduct towards these gentlemen ; but it is necessary that I should, upon this occasion, distinctly state to your Excellency—

1st. That if it be the desire of the State of Maine that the friendly relations between Great Britain and the United States should not be disturbed, it is indispensable that the armed force from that State now understood to be within the territory in dispute be immediately withdrawn, as, otherwise, I have no alternative but to take military occupation of that territory, with a view to protect Her Majesty's subjects, and to support the civil authorities in apprehending all persons claiming to exercise jurisdiction within it.

2nd. That it is my duty to require that all persons, subjects of Her Majesty who may have been arrested in the commission of acts of trespass within the disputed territory, be given up to the tribunals of this province, there to be proceeded against according to law.

3rd. That in the event of the rumour which has just reached me, relative to the arrest, detention, or interruption of James Maclauchlan, Esq., the warden of the disputed territory, being correct, that that officer be enlarged, and the grounds of his detention explained. Mr. Rogers takes charge of this letter, of which a duplicate will be placed in the hands of the honourable Mr. McIntire, with both of whom I have conversed, and communicated to them my views in regard to the actual position in which I shall be placed, and the measures which will be forced upon me, if the several demands contained in this letter be not complied with ; and I have reason to believe that Mr. McIntire leaves me fully impressed with the anxious desire which I feel to be spared the necessity of acting as the letter of my instructions would both warrant and prescribe.

With regard to trespassers upon the lands of the disputed territory, I beg to assure you that the extent to which those trespasses appear to have been carried, as brought to my knowledge by recent occurrences, will lead me to adopt without any delay, the strongest and most effectual measures which may be in my power for putting a stop to and preventing a recurrence of such trespasses.

With high respect, I have, &c.

(Signed)

JOHN HARVEY,

*Major-General, Lieutenant-Governor, &c.*



Inclosure 24 in No. 5.

*Sir John Harvey to Messrs. McIntire, Cushman, Bartlett, and Webster.*

*Frederickton, (N. B.) February 18, 1839.*

WHEREAS the offence wherewith you stand charged has been pronounced by the law officers of this province as one rather against the law of nations and of treaties than against the municipal laws of this country, and as such must be referred for the decision of Her Majesty's Government, you are hereby required to pledge your parole of honour to present yourselves at Frederickton, in this province of New Brunswick, whenever such decision shall be communicated or you shall be otherwise required by or on the part of this Government; and, for this purpose, you shall make known the place or places to which such requisition shall be sent.

(Signed) J. HARVEY.

I HAVE no hesitation in giving, and hereby do give, the parole of honour above referred to.

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Inclosure 25 in No. 5.

*Governor Fairfield to Sir John Harvey.*

Sir,

*Executive Department, Augusta, February 21, 1839.*

I HAVE the honour to acknowledge the receipt of your Excellency's communication of the 18th instant, by the hand of Colonel J. P. Rogers.

To your demand for the discharge of the persons arrested by the authorities of this State for being engaged in acts of trespass upon the public lands of this State, I have to say, that the persons named are now in the custody of the law. With that custody I have neither the disposition nor the authority to interfere.

In regard to James Maclauchlan, Esq., provincial land agent, and Mr. Tibbets, his assistant, I have advised that they be released upon the same terms upon which the Hon. Rufus McIntire and his assistants were released, to wit: upon their parole of honour, to return to Bangor whenever they should be thereto required by the Executive Government of this State, to answer to any charges that may be brought against them for their acts and proceedings upon what your Excellency is pleased to call "the disputed territory."

For a reply to the remainder of your Excellency's communication, I must refer you to my letter of the 18th instant, which you will receive by the hand of R. English, Esq.

I have, &c.,  
(Signed) JOHN FAIRFIELD,  
Governor of Maine.

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Inclosure 26 in No. 5.

*The Solicitor-General of New Brunswick to Mr. Jarvis.*

Sir,

*At the mouth of the Aroostook, River St. John,  
Province of New Brunswick, February 17, 1839.*

I AM directed by his Excellency Major-General Sir John Harvey, Lieutenant-Governor and Commander-in-chief of this province, to express to you his great surprise at the very extraordinary occurrence of an armed force, of the

description now with you, having entered upon the disputed territory, so called, and attempted to exercise a jurisdiction there, foreign to the British Government; seizing upon and maltreating British subjects, and retaining many of them prisoners, without having, in the first instance, given any notice or made any communication whatever to the Government authorities of this province of such your intentions, or the causes which have led to these acts of aggression. If you are acting under any authority from your own Government, the proceedings are still more unjustifiable, being in direct defiance and breach of the existing treaties between the Central Government of the United States and England. If you have not any such authority, you and those with you have placed yourselves in a situation to be treated by both Governments as persons rebelling against the laws of either country; but be that as it may, I am directed by his Excellency to give you notice that, unless you immediately remove with the force you have with you from any part of the disputed territory, so called, and discharge all British subjects whom you have taken prisoners, and at once cease attempting to exercise any authority in the said territory not authorized by the British Government, every person of your party that can be found or laid hold of, will be taken by the British authorities in this province, and detained prisoners to answer for this offence, as his Excellency is expressly commanded by his sovereign to hold this territory inviolate, and to defend it from any foreign aggression whatever, until the two Governments have determined the question of to whom it shall belong; and to enable him to carry these commands into full effect, a large military force is now assembling at this place, part of which has already arrived, and will be shortly completed to any extent that the service may require. In doing this, his Excellency is very desirous to avoid any collision between Her Majesty's troops and any of the citizens of the United States that might lead to bloodshed; and if you remove from the territory peaceably and quietly, without further opposition, such collision will be avoided, as, in that case, his Excellency will not think it necessary to move the British troops further; but if you do not, he will, in execution of the commands of the British Government, find it necessary to take military possession of the territory, in order to defend it from such innovation; and the consequences must be upon the authority, if any, upon which you act.

The three gentlemen who were with you, and were taken prisoners by some of our people, have been forwarded on to Frederickton by the magistrates of the country, and will be detained, (as all persons heretofore have been, who, on former occasions, were found endeavouring to set up or exercise any foreign jurisdiction or authority in the territory in question.) They will, however, be well treated, and every necessary attention paid to their comfort; but I have no doubt they will be detained as prisoners to be disposed of as may hereafter be directed by the British Government. The Warden of the disputed territory, Mr. Maclauchlan, went out, I understand, a few days since to explain all this to you, but, he not having returned, we are led to suppose you have still further violated the laws and treaties of the two nations by detaining him, who was a mere messenger of communication, together with Mr. Tibbets, the person who was employed to convey him. But as Mr. Maclauchlan was an accredited officer, acknowledged by the American Government as well as the British, and appointed for the very purpose of looking after the territory, I trust you will, on reflection, see the great impropriety and risk you run, even with your own Government, by detaining him or his attendant, Mr. Tibbets, any longer. I shall await at this place to receive your answer to this.

I am, &c.,  
 (Signed) GEO. FRED. STREET,  
*Solicitor-General of the Province.*

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Inclosure 27 in No. 5.

*Mr. Jarvis to the Solicitor-General of New Brunswick.*

Sir, *Confluence of the St. Croix Stream, Aroostook River,  
 Township No. 10, State of Maine, February 19, 1839.*

YOUR communication of the 17th instant has been this moment received. The Solicitor-General of the provinces must have been misinformed as to the place where the force under my direction is now located, or he would have been



spared the impropriety of addressing such a communication to me, a citizen of Maine, one of the North American confederacy of the United States.

It is also to be hoped, for the honour of the British empire, that, when Major-General Sir John Harvey, Lieutenant-Governor and Commander-in-chief of the province of New Brunswick, is made acquainted with the place where the Honourable Rufus McIntire, land agent of the State of Maine, and the two other gentlemen with him, were forcibly arrested by a lawless mob, that he will direct their immediate discharge and bring the offenders to justice.

The officer to whom you allude, and the person in company with him, were arrested for serving a precept on a citizen of Maine. He was sent on immediately to Augusta, the seat of Government, to be dealt with by the authorities of the State. Their persons are not, therefore, in my power, and application for their discharge must be made to the Government of the State.

If, however, I have been in error as your being under a mistake as to the place where I am now stationed, on land which was run out into townships by the State of Massachusetts, and covered by grants from that State before Maine was separated from Massachusetts, and which has therefore been under the jurisdiction of Maine since she has taken her rank among the independent States of the North American Union, then, as a citizen of Maine in official capacity, I have but one answer to return to the threat conveyed. I am here under the direction of the Executive of the State, and must remain until otherwise ordered by the only authority recognised by me; and deeply as I should regret a conflict between our respective countries, I shall consider the approach to my station, by an armed force, as an act of hostility, which will be met by me to the best of my ability.

I am, &c.,  
(Signed) CHARLES JARVIS,  
Land Agent.

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Inclosure 28 in No. 5.

*Extracts from a Report made by E. L. Hamlin, Land Agent of Maine, showing the possession and operations of that State on the Aroostook territory, dated January 1, 1839.*

“IN the month of April, Ebenezer Webster, Esq., of Orono, was employed to examine the public lands, situate on the St. John and Aroostook Rivers, and ascertain what trespasses had been committed in that quarter, and report what measures could be adopted to prevent future depredations. It will be seen from his report, accompanying this, that for many years past great depredations have been committed on those rivers.

“The method adopted by the provincial authorities to stop trespassing, by seizing the timber after it had been cut, has had but little tendency to stop depredations, and as there has been no road opened, by which our agents could have a communication with this country, the trespassing has gone on, increasing from year to year, until nearly all the timber on the banks of these rivers has disappeared.

“Upon consultation with the land agent of Massachusetts, it was determined to expend a portion of the money appropriated for the Aroostook road, on the upper part, which would not be turnpiked the present season so as to make a good winter road, and to appoint an agent to remain on the Aroostook River during the winter, and by keeping up a communication with this quarter to prevent, if possible, the timber from further depredation.

“About the middle of October, information reached this office that persons were trespassing on township number 10, in the 5th range. I immediately left Bangor, in company with George W. Buckmore, who had received a special deputation, for the purpose of arresting this trespass, and putting into operation the arrangements made between the two land agents. Upon our arrival at township number 10, we found that the trespassers had left, had ascended the Great Machias, and were then at work on township number 11, in the 6th range, belonging to Maine. We found here Benjamin Gardner, a settler from township letter G, in the second range, with a crew of six men, and Lewis Bradley, a settler from the same place, with a crew of five men, and a team of six oxen.

They had been here about a week, and had made two hundred and fifty tons of timber, including that cut upon township number 10.

"Writs of trespass were served upon these persons, their cattle and supplies attached, and the whole expedition broken up.

"We here learned that preparations were making to cut several thousand tons of timber on Beaver brook, which we ascended about five miles, and found two camps recently built on township number 13, in the 5th range, belonging to Massachusetts, but the crews had left and gone down river, hearing, most probably, of the trouble on the Machias. Peter Bull, a settler on township letter G, had engaged to supply these persons, and to haul their timber. We called on him, on our way down, and informed him, that an agent would be employed by Maine and Massachusetts, to remain on the river during the winter, and that his cattle would be taken off if found engaged in any trespass.

"He informed us that he should stop at once, that the crews should not return to number 13, and that he would not be concerned in any farther depredation.

"On township number 12, in the 4th range, belonging to Maine, we found Mr. Mumford, a settler, and two persons, named Churchill and Earskins, from New Brunswick, building a camp. Upon representing to these persons that their teams would be taken off if they persisted, they immediately quit.

"About a mile up the Salmon stream, we found a crew of six men, located for the winter, on township number 13, in the 3d range, belonging to Massachusetts. They had got in their supplies, and were just beginning to cut timber, having made about one hundred and fifty tons. Their names were Wilder Stratton, James Swetor, David Swetor, Michael Keely, James Coffee, and John Smiley, all from New Brunswick. William Pyle, a settler, had agreed to haul their timber on shares. A writ of trespass was served upon these persons, their supplies attached, and the depredations stopped.

"Near the mouth of the Little Madawaska, we met Captain Maclauchlan, going up the river, with a crew of six men. He informed me that he was sent up by the Governor of New Brunswick to drive off the trespassers, and, if necessary, to cut up their timber.

"I informed him what I had done with the trespassers above; and also informed him of the depredations which I understood were about to be committed on the Madawaska and St. John Rivers, above the Grand Falls. He replied, that he should visit those places before he returned, and would do all in his power to protect the timber from trespass.

"Below this, we found several crews just commencing to make timber, all of whom, upon representing to them the consequences of continuing their trespass, immediately desisted, and left the woods. I did not visit the St. John River, being of opinion that it would be in vain to attempt to arrest trespassers, or to secure the timber from pillage on that river, until a road should be opened, by which the land agent could reach it without being compelled, as he now is, to pass through the province of New Brunswick. From twelve to fifteen thousand tons of timber would undoubtedly have been cut by these trespassers, the ensuing winter, if they had been unmolested; and this amount of timber has thus been saved, by opening a communication to the Aroostook River, so as to bring these depredators within the reach of civil process.

"The land agent of Massachusetts having granted several permits to cut timber near the head-waters of the Aroostook, the most of those trespassers who were routed ascended the river, and engaged to work for the winter, with those holding permits, so that no further trouble is apprehended from them at present. Mr. Buckmore has been appointed to remain, during the winter, on the Aroostook territory, and it is confidently believed, that, with these precautionary measures, the townships on this river will be effectually protected from further depredation.

"During the survey of townships number 10 and 12, the Surveyor-General received a visit from James Maclauchlan, of Frederickton, who protested against the survey. I herewith annex a copy of the correspondence which took place between said Maclauchlan and the Surveyor-General."

"It will be seen from the written communication of Captain Maclauchlan, that the British Government claim to exercise jurisdiction over the whole northern part of the State, by virtue of 'existing arrangements subsisting between the British Government and that of the United States.' I am not aware of any arrangements between the Government of the United States and Great Britain, which have surrendered to the latter the jurisdiction of the disputed territory.



"It is believed that nothing further has been done between the two Governments, than intimations from each that the other should forbear to exercise any act of jurisdiction, pending the negotiation, beyond the territory then in actual possession of each Government, as may be seen from the correspondence between the ministers of the two Governments in 1832 and 1835."

"As Massachusetts and Maine, since they became independent Governments, have always had the possession of the territory south of the St. John, it is believed that no other opposition than the formal protest of Mr. Maclauchlan will be attempted by the provincial authorities against the further prosecution of surveys which may be made in this quarter."

"Written applications have been filed in this office, by different persons, for the privilege of selecting lots and erecting mills, under the provisions of the new land law, in townships numbers three, eleven, and thirteen, in the fourth range, township number twelve, in the fifth range, and township number nine, in the sixth range, west from the east line of the State; and settlements will be commenced on most of these townships this season, if not on all.

"Joseph Pollard and others commenced last spring erecting mills on township number nine, in the fourth range, on the St. Croix stream, which will be finished in a few weeks; and they claim the privilege of selecting twenty lots in that township, as soon as it shall be surveyed.

"George W. Buckmore and others have completed a dam across the Great Machias River, in township number eleven, in the fifth range, and are now engaged in building mills, which will be finished early in the spring.

"This township belongs to Massachusetts; and lying between townships numbers ten and twelve, belonging to Maine, surveyed for settlement the last year, and being in the midst of the improvements that our citizens are making on the Aroostook, it is very important that Maine should become the owner of this township."

"The Aroostook road has been made the last year about twenty-three miles; and, including what was built the year before, it has been finished to township number five, in the sixth range, a distance of thirty miles, under the superintendence of Ira Fish, Esq., of Lincoln, whose report is herewith communicated."

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Inclosure 29 in No. 5.

*Colonel Webster's Report to the Land Agent of Maine.*

Sir,

Orono, May 7, 1838.

AGREEABLY to my instructions from the land office, dated March the 20th, for the purpose of examining the public lands upon the St. John and Aroostook Rivers, to ascertain, as near as may be, the amount of timber cut by trespassers the past winter, I have attended to that duty, and submit the following report:—

I left Orono on the 9th day of April, and arrived at the Grand Falls, on the St. John, on the 12th.

The next day I proceeded up the river to the boundary-line, which is two or three miles above the falls.

One mile above the boundary-line, I found hauled upon the bank of the river about three hundred tons of timber, of a very large size; the owner I could not ascertain. This was on the south side of the river.

On the north side, about one mile above this, I found about one hundred tons; and about one mile further up, I found, on the south side, about two hundred tons. About twelve miles from the boundary-line, at the mouth of Grand river, I found about four hundred tons, cut by Debays, a Frenchman, who was supplied by Messrs. Smith and Upham, of Woodstock, New Brunswick. I then proceeded to the mouth of the Madawaska, where I learned that many teams had been at work during the winter, on what was called the Seignory, near the head of this river. I then proceeded up the St. John's as far as Captain Joseph Machaux's, where the Aroostook road, as laid out by the Surveyor-General, strikes the St. John's. I here ascertained that five teams had been getting timber during the winter, on the main St. John, above the mouth of the St. François River.

The names of the men were Christopher Macay, Joseph Damewick,

Captain Machaud, N. M. Wheelock, and I. Cating; the three first are Frenchmen, living at Madawaska, the other two live in New Brunswick. They have cut, from the best information I could obtain, about three thousand tons.

I here engaged a guide, and, after purchasing provisions, snow shoes, &c., started through the woods for the Aroostook River. I left the road line to the west; and, after travelling about six miles south, I struck the Fish River lake. This lake lies about north and south, and is eight miles long. I travelled about six miles on this lake, and saw fine timber growing upon the shores. I discovered from the lake a very extensive ridge of hard-wood land, very level, lying nearly north and south, about a mile from the lake, to the eastward, which I think would afford a much better location for a road than the one selected.

I proceeded westwardly to the outlet of the lake, about two miles. I followed down the outlet about three-fourths of a mile, to another smaller lake on Fish River, which abounds with fine timber. I crossed this lake about three miles to the outlet, thence down the outlet until I struck the road line about one mile from the outlet of the second lake. I followed down the road to the fifteen-mile tree, where I encamped. The snow was two feet deep, on a level, between the Aroostook and St. John's Rivers. I proceeded, the next day, down the road to the twenty-eight mile tree, where we encamped.

This distance was mostly over black land. The next day I travelled to the thirty-nine mile tree, where I struck Beaver brook; and, finding that teams had been passing up and down, I concluded to follow the stream down to the Aroostook, distant about five miles.

I found on this stream about four hundred tons of timber, which, I think, must have been taken from township number 13, in the fourth range. Considerable more than this must have been cut above the road line, from the appearance of teams passing, &c., making in the whole at least a thousand tons cut on this stream. From the best information I could get, this timber was cut by Peter Bull, and two men by the name of Gardner, and a Mr. Brown. Peter Bull is a settler upon the Aroostook, the other men are from the provinces.

On township number 12, in the fifth range, I found about five hundred tons cut on the south side of the Aroostook by Peter Bull and two men by the names of Becket and Hale; the two latter being from the province.

I then proceeded to township number 10, in the fifth range, belonging to Maine, where I found about five hundred tons, cut by Samuel Leavitt, a settler, and Mr. Hooper, from the province.

William Johnson and several others have been getting timber on the Little Madawaska; and, from the best information I could obtain, they would cut about one thousand tons. They were all from the province.

Four men, Joseph Trumball and Daniel Dow, Americans, and William Brown and John Auxley, from the province, have been trespassing on township number 9, in the sixth range, and have made about four hundred tons.

I have no doubt the timber cut on the disputed territory—on the St. John's and Aroostook Rivers—the last winter, amounts to ten thousand tons. As the largest trees only are selected, such as will square from twenty to thirty inches, and nothing but clear stuff cut out, there is a great waste of the timber.

I have it from good authority, that, within the last fifteen years, there has been taken from the disputed territory several hundred thousand dollars' worth of stumpage. The merchants on the St. John's River fit out teams and supply men, who go on and plunder the timber; the timber is driven below the line, and marked and rafted with timber cut under permits. This timber is frequently seized, but the trespassers generally manage to escape without much loss. The Warden of the disputed territory frequently passes up the St. John's and warns off the trespassers, and notifies them that the timber will be seized; but the plunderers pay no attention to him. They go on and cut timber, and, when the ice goes out, it is turned in and run down, and marked as province timber, cut below.

It is distressing to see our lands in that section of the country stripped by plunderers of valuable pine timber.

The trespassers follow up the St. John's and Aroostook Rivers, and their tributary streams large enough to float timber; and where they are unable to get on teams, they get in the timber by hand; and in fifteen years, at the rate they go on, but little timber will be left.



I was upon the St. John's and Aroostook seven years ago, when I saw beautiful groves of pine timber standing on the banks of these rivers, now all plundered and carried off; and for thirty miles in extent upon the Aroostook River, every pine-tree fit for ton timber has been carried off, and every half mile presents some old timber landing where the trespassers made a winter's work.

There are a number of Americans settled on the Aroostook, who have nothing to do with getting off timber, and feel very anxious that something should be done to prevent the British subjects from coming into their settlement and plundering the timber, which would be of great advantage to them when the boundary-line is settled.

As I have been requested to give my opinion upon the best mode to be adopted by the State to protect this country from trespass, I would say that, in my opinion, there is but one effectual mode to preserve the timber on these rivers; and that is, to open to them a good road. I would recommend that the Aroostook road be immediately made passable for a horse and wagon and ox teams. This can be done by grubbing out the centre of the road, and laying causeways over the swampy places, of sufficient width to be turnpiked, so that, ultimately, nothing will be lost to the State when the road is finished. It is very important that a good communication should be opened with the Aroostook immediately; for when this is done, an officer can be sent in, and remove the teams that are concerned in any trespass. When the trespassers find that the State is in earnest, and determined to arrest them, there will be no further trouble; but so long as the State takes no prompt measures to stop them, or bring them to justice, they will double their diligence and numbers, and increase their depredations. I understood that the lumbermen were making great calculations to cut timber on the disputed territory the ensuing season, as it was likely to bear a high price in the province. If this road should be made, as suggested, and an officer appointed to look after trespassers on the Aroostook, in my opinion there would be an end to depredations, and thousands of dollars would be saved yearly to the State. There are at present on the Aroostook American settlers sufficient to give all needful assistance to an officer in serving any legal process.

Another reason why the road should be completed, or made passable, is, that the settlers on the Aroostook require it, in order to have a communication with Bangor. Mr. Joseph Pollard, with seven men, has commenced building mills on the St. Croix, and many settlers intend moving to the Aroostook in June.

If it is therefore any object to the State to have the public lands settled, the State should be willing to open communications by which the settler can reach his abiding-place. If all the money appropriated upon the Aroostook road is laid out upon the lower part of the road, and nothing done upon the upper part, and as it will not be completed beyond township No. 4, here the settlers must come to a dead stop.

They must either back in their provisions, or carry them up the Sebois; and so across a number of exceedingly bad carrying-places, in order to reach the Aroostook. I would, therefore, recommend that a portion of the Aroostook appropriation be laid out on the road above township No. 4, so as to make it passable for teams the whole distance.

I would also beg leave to suggest the propriety of opening a road fourteen feet wide from the Aroostook to the St. John's River, so as to be passable for teams in the winter. I think this road can be cut out, bridged, and causeways laid, the whole distance, forty-five miles, for about one hundred dollars per mile. This road will enable the State to have a communication with the St. John's River; and I have no doubt ten thousand dollars worth of stumpage may be saved the next winter.

The French inhabitants near the termination of this road, on the St. John's, are very desirous to have it opened.

I would recommend an alteration in the location of this road. The land over which this road now passes is covered with a black growth, and good land for roading, but not for settling.

A few miles to the eastward of this, there appears to be an extensive hardwood ridge, reaching from the St. John's to the Aroostook, excellent settling land, and over which the road should be located to accommodate settlements. The distance would not be increased, and the road would strike the St. John's, near the place where it now does.

By opening these roads, the State will be able to protect the timber on the Aroostook and St. John's Rivers, and a rapid settlement of the country will immediately ensue, as large portions of the land in this part of the State are a superior quality for cultivation.

I am, &c.,  
(Signed) EBENEZER WEBSTER.

Inclosure 30 in No. 5.

*Message of the President of the United States to the House of Representatives of the United States.*

*Washington, February 27, 1839.*

I TRANSMIT to Congress copies of various other documents received from the Governor of Maine, relating to the dispute between that State and the Province of New Brunswick, which formed the subject of my message of the 26th instant; and also a copy of a memorandum signed by the Secretary of State of the United States and Her Britannic Majesty's Envoy Extraordinary and Minister Plenipotentiary near the United States, of the terms upon which it is believed that all hostile collision can be avoided on the frontier, consistently with and respecting the claims on either side. As the British Minister acts without specific authority from his Government, it will be observed that this memorandum has but the force of recommendation on the provincial authorities, and on the Government of the State.

(Signed) M. VAN BUREN.

Inclosure 31 in No. 5.

*The Governor of Maine to the President of the United States.*

Sir, *Executive Department, Augusta, February 22, 1839.*

I HAVE the honour to inclose, herewith, copies of a letter from the Lieutenant-Governor of New Brunswick, under date of February 18th, with my reply thereto; letter from the Solicitor-General of the province of New Brunswick to the Honourable Charles Jarvis, temporary land agent, under date of the 17th instant, with Mr. Jarvis's reply; parole of honour given by Messrs. McIntire, Cushman, Bartlett, and Webster, dated 18th February; my message to the Legislature, of the 21st instant.

These papers will give your Excellency all the additional information, of any importance, not heretofore communicated, that has been received in relation to the state of affairs upon our Eastern frontier. I cannot but persuade myself that your Excellency will see that an attack upon the citizens of this State by a British armed force is, in all human probability, inevitable, and that the interposition of the General Government at this momentous crisis should be promptly afforded.

I have, &c.,  
(Signed) JOHN FAIRFIELD,  
*Governor of Maine.*

Inclosure 32 in No. 5.

*Sir John Harvey to the Governor of Maine.*

*Frederickton, (N. B.,) February 18, 1839.*

[See Inclosure 23 in No. 5, page 43.]



Inclosure 33 in No. 5.

*The Governor of Maine to Sir John Harvey.*

*Augusta, February 21, 1839.*

[See Inclosure 25 in No. 5, page 44.]

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Inclosure 34 in No. 5.

*The Solicitor-General of the Province of New Brunswick to the Officer in command in the disputed Territory.*

*Mouth of the Aroostook, February 17, 1839.*

[See Inclosure 26 in No. 5, page 44.]

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Inclosure 35 in No. 5.

*Mr. Charles Jarvis, (Land Agent,) to the Solicitor-General of the Province of New Brunswick.*

*Confluence of the St. Croix, February 19, 1839.*

[See Inclosure 27 in No. 5, page 45.]

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Inclosure 36 in No. 5.

*Sir J. Harvey to Messrs. McIntire, Cushman, Bartlett, and Webster.*

*Frederickton, (N. B.,) February 18, 1839.*

[See Inclosure 24 in No. 5, page 44.]

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Inclosure 37 in No. 5.

*Message of Governor Fairfield to the House of Representatives.*

*Council Chamber, February 21, 1839.*

UNDER the order of the House of Representatives of the 19th instant, I herewith lay before you certain correspondence since had with the Lieutenant-Governor of New Brunswick; and the correspondence between George Frederick Street, Esq., Solicitor-General for the province of New Brunswick, and Charles Jarvis, Esq., provisional land agent of this State.

The reply of Mr. Jarvis to the inadmissible and preposterous claims and pretensions of Her Majesty's Solicitor-General for the province of New Brunswick, must, I think, command the unqualified approbation of every one having a just regard for the honour of his State. It is in the true spirit. And I have every reason to believe that the same spirit animates the whole body of our citizens. While it prevails, though success will be deserved, defeat can bring no disgrace.

You will see by the accompanying papers, (and I take great pleasure in communicating the fact,) that Mr. McIntire and his assistants have been released. It was, however, upon their parole of honour to return when thereto required by the Government of that province. Immediately upon the receipt of this infor-

mation, I advised the release of James Maclauchlan, Esq., provincial land agent, and his assistant, upon the same terms.

Since my last communication, the land agent's forces at the Aroostook have been reinforced by about six hundred good and effective men, making the whole force now about seven hundred and fifty.

I have a letter from Mr. Jarvis, dated the 19th, before the reinforcement had arrived, and when his company consisted of only one hundred men. He says he "found the men in good spirits, and that they had been active in making temporary but most effectual defences of logs," &c.

After describing his defences, he says, "by to morrow noon, a force of one hundred men would make good our position against five hundred. Retreating, therefore, is out of the question. We shall make good our stand against any force that we can reasonably expect would be brought against us." He says further, "I take pleasure in saying to you that a finer looking set of men I never saw than those now with me, and that the honour of our State, so far as they are concerned, is in safe keeping."

The draught of one thousand men from the third division has been made with great dispatch. The troops, I understand, arrived promptly at the place of rendezvous at the time appointed, in good spirits, and anxious for the order to march to the frontier. The detachment from this second division will be ordered to march at the earliest convenient day—probably on Monday next. Other military movements will be made, which it is unnecessary to communicate to you at this time.

The mission of Colonel Rogers to the Lieutenant-Governor of New Brunswick has resulted successfully, so far as relates to the release of the land agent and his assistants, and has been conducted in a manner highly satisfactory.

(Signed) JOHN FAIRFIELD.

Inclosure 38 in No. 5.

#### MEMORANDUM.

*Washington, February 27, 1839.*

[See Inclosure 3 in No. 5, p. 26.]

Inclosure 39 in No. 5.

*Resolutions of the Senate, February 28, 1839.*

THE following is a correct copy of the series of resolutions reported from the Committee on Foreign Relations by Mr. Buchanan:—

*Resolved*,—That the Senate can discover no trace, throughout the long correspondence which has been submitted to them, between the Governments of Great Britain and the United States, of any understanding, express or implied, much less of any "explicit agreement," such as is now alleged, that the territory in dispute between them on the north-eastern boundary of the latter shall be placed and remain under the exclusive jurisdiction of Her Britannic Majesty's Government until the settlement of the question; on the contrary, it appears that there was, and is, a clear subsisting understanding between the parties, under which they have both acted, that, until this question shall be finally determined, each of them shall refrain from the exercise of jurisdiction over any portion of the disputed territory, except such parts of it as may have been in the actual possession of the one or the other party.

*Resolved*,—That, whilst the United States are bound in good faith to comply with this understanding, during the pendency of negotiations, the Senate cannot perceive that the State of Maine has violated the spirit of it by merely sending, under the authority of the Legislature, her land agent, with a sufficient force, into the disputed territory, for the sole purpose of expelling lawless trespassers engaged in impairing its value by cutting down the timber; both



parties having a common right, and being bound by a common duty, to expel such intruders from a territory to which each claims title, taking care, however, to retire within their acknowledged limits when this single object shall have been accomplished.

*Resolved*,—That, should Her Britannic Majesty's Government, in violation of the clear understanding between the parties, persist in carrying its avowed determination into execution, and attempt, by military force, to assume exclusive jurisdiction over the disputed territory, all of which, they firmly believe, rightfully belongs to the State of Maine, the exigency, in the opinion of the Senate, will then have occurred, rendering it the imperative duty of the President, under the Constitution and the laws, to call forth the militia, and employ the military force of the United States, for the purpose of repelling such an invasion. And in this event, the Senate will cordially co-operate with and sustain the President in defending the rights of the country.

*Resolved*,—That, should the British authorities refrain from attempting a military occupation of the territory in dispute, and from enforcing their claim to exclusive jurisdiction over it by arms, then, in the opinion of the Senate, the State of Maine ought, on her part, to pursue a course of similar forbearance. And should she refuse to do so, and determine to settle the controversy for herself by force, the adjustment of which is intrusted under the Constitution to the Federal Government, in such an event there will be no obligation imposed on that Government to sustain her by military aid.

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Inclosure 40 in No. 5.

*Report of the House of Representatives.*

MR. HOWARD, from the Committee on Foreign Relations, made the following report:—

The Committee on Foreign Affairs, to which have been referred two messages from the President of the United States, inclosing sundry papers relating to the disturbances upon the Aroostook River, in the State of Maine, report—

That they have examined the papers submitted to them by the House with great care, and will offer such reflections upon them as the limited time for the preparation of this report will admit. The very near approach of the termination of the present Congress, and the desire of the Committee that as much time as possible should be afforded to the House for the examination of the Bill herewith reported, are considerations of such a powerful nature, that some incidental matters, connected with the subject, cannot be fully investigated. The main points, however, of the controversy, are not numerous, and upon them the opinion of the Committee is clear and decided. The position assumed by the President in his message, is correct, and ought to be sustained, if necessary, by the legislative powers of Congress.

It is well known that an informal arrangement or understanding has existed, for many years past, between the United States and Great Britain, relating to the territory in dispute between them, and having for its object the avoidance of clashing authorities, calculated to endanger the peace of the two nations. The Committee have not time to give a detailed and historical statement of the origin and progress of this arrangement, the examination of which might perhaps elucidate the cause of the strange error into which the British Government is represented by its agents in this country to have fallen with respect to its provisions. Suffice it to say, that it never appears to have gone further, in its greatest extent, than to adopt the basis of the "*uti possidetis*," leaving each party to the continued exercise of the jurisdiction which it had previously maintained in practice. The idea which is occasionally suggested in some of the British documents, that, prior to the Peace of 1783, the Government of Great Britain was in possession of the whole country, and therefore, that this constructive possession must be considered as continuing until she is divested of it with her own consent, is one which the United States can never sanction, or even listen to without strong repugnance.

It implies that the people of the United States hold their country by a grant from the British Crown, made in the Treaty of 1783—a doctrine which was successfully resisted by the ministers of the United States, even when it was advanced by remote implication, prior to the signature of that Treaty, by their refusing to treat with the British ministers until their credentials were changed. At a subsequent period of our history, the same doctrine was advanced in argument; and at that period, also, was, as it must ever be, met with instant contradiction. The people of the United States hold their country by virtue of the declaration of the 4th of July, 1776; and the Treaty of 1783 did nothing more than arrange the boundary lines between the two nations, independent of each other in fact and in right. So far, therefore, as the claim of Great Britain to the jurisdiction over the unsettled parts of Maine is founded upon the twice exploded theory that she is the rightful sovereign of all that she has not granted away, it cannot be submitted to without sacrifices of honour, which the American nation never will make.

When the discussion became active between the two Governments, as to their respective rights to the territory now in dispute, the greater part of it was, and indeed still remains, uninhabited by permanent settlers. Here and there a small settlement could be found, consisting in some cases of a single house, and in others of more than one, placed near each other for the convenience of the inhabitants. The extent of the arrangement between the two Governments does not appear, as construed by the American Government, to have gone further than the recognition of the jurisdiction of each over the people and lands then operated upon by it. If these inhabitants had taken out the titles to their lands from either one Government or the other, and were in the habit of resorting to its judicial authority for the preservation of order, then they were to continue so to do until the question of ultimate ownership should be finally decided in some mode satisfactory to both Governments. The propriety of this arrangement will not be questioned by the Committee.

If it left to the British Government the jurisdiction over the inhabitants along the military road which lead from Halifax to Quebec, and thereby furnished it with a motive for procrastinating the controversy, inasmuch as it continued in the enjoyment of nearly all that rendered the country valuable as a British possession, it also furnished a strong proof of the desire of the American Government to deal fairly and liberally with its antagonist in the argument. Demonstrating in this conclusive manner, that it was not influenced by a captious spirit of discontent, the Government of the United States derived from this state of the case a right to appeal to the British Government to expedite the final adjustment of the controversy, and to claim, in the mean time, the full benefit, on its part, of an arrangement which, perhaps, gave to its adversary more than an equal share of advantages. But the arrangement has been entirely misunderstood or misconstrued, if the Lieutenant-Governor of New Brunswick be correct in his exposition of the orders under which he is acting. The United States never did, and never can, consent that the exclusive jurisdiction of the whole territory in dispute shall be consigned to the care of any officer of the British Government.

The pretension now advanced is as unreasonable in itself as it is unsustained by any agreement between the two Governments.—Supposing that the parties to the controversy stand upon an equal footing as to their rights, (and there is none other in the case, except the inadmissible one formerly alluded to,) the United States have as much reason to expect that Great Britain will yield to them the exclusive jurisdiction of the whole of the contested territory, together with the care and custody of the timber and other public property, as she has to require from us such an extravagant concession. On the part of the United States, it has never been claimed or asked, as far as the Committee are informed; and the true position of the President now is, that he resists the application of a principle which no Executive of this country ever adopted as his guide. It has not been asked of Great Britain, nor can it be submitted to from her. What the United States ask from others, they are always willing to grant; nor can they grant what it would be deemed unreasonable to ask.

That portion of the territory in which the recent and present disturbances exist, has been, for a number of years past, subject to the laws of Maine; and, before the separation of Maine from Massachusetts, was under the control of the latter. In December, 1807, Massachusetts conveyed one township, lying



on both sides of the Aroostook, and near the meridian line from the source of the St. Croix, according to a selection, survey, and plan made under a resolve passed in March, 1806. In January, 1808, she conveyed ten thousand acres, lying west of the aforesaid township, and on both sides of the Aroostook, pursuant to a survey and plan made under the same resolve. This jurisdiction has been continued, through the medium of land agents, ever since that time; and the settlers, who have been there for a number of years past (certainly since 1822), have always, in practice, held their property under grants from Massachusetts and Maine.

The part remaining unsettled has been applied to no other useful purpose than to use the timber, in which it is very productive; and the State of Massachusetts has been in the practice of granting licenses to her people to cut timber from the public domain. The exercise of jurisdiction was as perfect as the nature of the country would permit. The mere fact of granting licenses to cut timber, to certain individuals, shows that the preservation of the timber was held to be an object of great consequence, and drew after it the incidental right of refusing to permit the timber to be cut down, whenever it was thought wise to do so; or of taking other measures for its preservation, by driving off trespassers, or punishing them by civil process. This right Maine derived from Massachusetts. Every State Government in the Union has a right to regulate the landed interest, whether public or private, within its limits; and Maine stands upon the same footing, unless as to such parts of it as are decided not to be under its jurisdiction by the exercise of the constitutional powers of the Federal Government.

But, as has been already observed, no proceeding or agreement of the Federal Government can be found which did not recognise an actual jurisdiction, just such as that now claimed and enforced by Maine. Whether the Legislature of that State ought or ought not, in courtesy to the Federal Government, to have invoked its interposition before driving off the trespassers with a strong hand, is a question which the Committee deem it unnecessary to examine; because the pretensions advanced by the Lieutenant-Governor of New Brunswick equally exclude the right of the United States and Maine to interfere. If the United States had been applied to, and the urgency of the case had rendered a prompt and forcible interposition necessary to remove those lawless trespassers, who were equally the enemies of both Governments, the same opposition would have been made to such interference by the Lieutenant-Governor of New Brunswick, and the same question arisen as in the present case.

The conflicting claims of Great Britain and the United States are now presented in antagonistical position to each other, and the subordinate question as to the manner in which they have thus been brought in direct opposition is not of sufficient importance to require a strict examination. If it were, it might be argued that the conduct of the Lieutenant-Governor of New Brunswick in directing a boom to be placed across the mouth of the Aroostook River, for the purpose of intercepting, seizing, and selling the timber which has been cut, is no sufficient satisfaction to the State of Maine, which may desire to preserve its own timber, whilst it argues such remissness on the part of the British authorities, over their own people, as might well have induced the State of Maine to enforce her own laws. If the Committee are right in the view which they have taken of the arrangement between the United States and Great Britain, there is nothing in it to impair, but, on the contrary, everything to ratify the jurisdiction of Maine over that part of her territory where it had long been familiar, and the interference of the Lieutenant-Governor of New Brunswick is a violation of the existing understanding. In the first proceeding of Maine, the force sent to arrest or drive off the numerous and armed band of trespassers who were depredating upon the public property, appears to have been in the nature of a civil process, in execution of the law of the land. The power of a ministerial officer, such as a sheriff, for example, to compel obedience to the law, and to summon to his aid a sufficient portion of the "power of the county" to subdue opposition, is well known both to American and British jurisprudence, and is sanctioned by early laws in the history of England. The riotous and desperate character of the marauders upon the Aroostook is sufficiently manifested by the fact of their breaking open an arsenal upon the British territory, in order to supply themselves with an additional quantity of arms to enable themselves to resist and repel the party which was approaching under a civil

officer, to require submission to the laws. The proclamation of the Lieutenant-Governor of New Brunswick was issued before any steps were taken by Maine to sustain the civil by the military power, and was directed against the interference of the ministerial officer of the law, acting in strict conformity with what are believed to be fundamental principles of British as well as American law. The first appeal to military force was made by him, and the subsequent proceedings of Maine are defensive merely. The pretension of the Lieutenant-Governor of New Brunswick excludes the civil as well as military power of Maine and the United States from interfering to preserve order in this seat of the ancient jurisdiction of Massachusetts; and would compel the United States and Maine to rely upon the justice, the vigilance, or the generosity of the British authorities for the maintenance of good order and the enforcement of the laws, in a country where nothing but a naked claim can be said to exist upon the part of the British Government. It demands of Maine that she should divest herself of a jurisdiction practically established and ascertained, and transfer it to Great Britain. It demands of the United States that an arrangement, alleged to have been made between the two Governments, of the existence of which the United States are unconscious, should be summarily carried out, according to the construction which one of the parties is said to have placed upon it, and without giving to the other party an opportunity to contest such construction. It is difficult, in the opinion of the Committee, to believe that the Government of Great Britain maintains such an interpretation of that arrangement, and thus converts what was intended for the preservation of friendly feelings into a source of great and instant discord. But the assertion of the Lieutenant Governor of New Brunswick has been twice officially, deliberately, and publicly made, that he is acting under the instructions of his Government; a fact of which he and his Government can be the only judges. The execution of these orders is incompatible with the honour of the United States. The Executive branch of the Government has expressed this opinion, and in this opinion the Committee fully concur. The sudden execution of these orders may bring on a crisis for which as much preparation ought to be made as the short time remaining of the present session of Congress will permit; and the Bill, which is herewith submitted, is intended to accomplish that purpose.

The Committee refer with much pleasure to the efforts which have been made by the British Minister at Washington, evidenced by the memorandum of a conference between him and the Secretary of State, to avert the events which seem to be approaching. If the Lieutenant-Governor of New Brunswick shall desist from any attempt to take or hold military possession of the whole of the disputed territory, it will be easy to restore things to their former condition. If he shall determine to suspend further movements until the decision of the British Government be known, it will be for that Government to say what shall be the political relations between the United States and Great Britain; whether the friendship which now so happily prevails between the two nations, for the preservation of which the essential interests of both loudly call, shall be suddenly and rudely broken by assuming a principle as a ground of action to which the United States cannot submit.

The Committee cannot but entertain the hope that no precipitate counsels on the part of the Lieutenant-Governor of New Brunswick will deprive the Government of Great Britain of an opportunity of explaining, before any more serious difficulties shall have occurred, orders which he is believed to have misunderstood. In this event, all immediate difficulties will disappear. The insuperable objection to the military occupation of the disputed territory by Great Britain, requires, in common fairness, that no attempt of the kind should be made by Maine or the United States. Having accomplished the intention of driving off or arresting the trespassers upon the Aroostook, and thus enforcing her laws, Maine will, it is not to be doubted, be satisfied with this vindication of her sovereignty, and withdraw the military force which is now in arms to sustain the civil authority and repel invasion. A contemporaneous cessation of measures by Maine and New Brunswick will compromise the honour of neither; and time will thus be afforded for the British Government to select the position which it intends to occupy in the relations between it and the United States. If any motive were necessary to induce Maine to adopt a course so manifestly proper,



it would be found in the prompt response of the Executive of the United States to the appeal made to it at the present crisis, and the jealous sensibility which has been manifested for the protection of her rights, by spreading over them the ample powers of the Federal Union.

The Committee ought, perhaps, here to close this report. But the anxiety which they feel that no measure should be left unemployed to preserve peace between the United States and Great Britain, by removing, not only temporarily but permanently, the causes of discontent between them, induces them to offer another recommendation to the House. It is, the expression of an opinion by the House, sustained by a legislative provision, that a Special Embassy should be sent to England, for the purpose of co-operating with the resident Minister there, in endeavouring to adjust this long pending controversy. The precedents for this measure in our history are numerous and encouraging.

The object of such an Embassy is, to express a deep conviction on the part of the Government of the extreme urgency of the case, and the absolute necessity of adjusting existing difficulties. The ordinary forms of negotiation appear insufficient to rouse the British Government to the danger that the two nations may find themselves involved in war, notwithstanding the desire of the Governments of both to avoid it; and the step proposed would manifest to the world, at all events, that the United States are sincerely anxious to exert every means in their power to maintain the most amicable relations with a Government and People, so eminently entitled to the respect and regard of every civilized nation on the globe.

The Committee are conscious that some of the provisions of the Bill herewith reported would more properly have emanated from some of the other Committees of the House, upon whose jurisdiction they are reluctant to encroach: but the few days which remain of this session would not have permitted any delay, with a view of referring these subjects to other Committees, with the slightest hope of obtaining any action on the part of the House. They submit the whole matter, therefore, as the result of their anxious reflections, to the better judgment of the House.

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Inclosure 41 in No. 5.

*Law for the Defence of the United States.*

**An Act** giving to the President of the United States additional powers for the defence of the United States, in certain cases, against invasion, and for other purposes.

BE it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That the President of the United States be, and he hereby is, authorised to resist any attempt on the part of Great Britain to enforce, by arms, her claim to exclusive jurisdiction over that part of the State of Maine, which is in dispute between the United States and Great Britain; and, for that purpose, to employ the naval and military forces of the United States, and such portions of the militia as he may deem it advisable to call into service.

Section 2. And be it further enacted, That the militia, when called into the service of the United States by virtue of this Act, or of the Act entitled "An Act to provide for calling forth the militia to execute the laws of the Union, suppress insurrections, repel invasion, and to repeal the Act now in force for those purposes," may, if in the opinion of the President of the United States the public interest require it, be compelled to serve for a term not exceeding six months after the arrival at their place of rendezvous, in any one year, unless sooner discharged.

Section 3. And be it further enacted, That in the event of actual invasion of the Territory of the United States by any foreign Power, or of imminent

danger of such invasion discovered, in his opinion, to exist, before Congress and be convened to act upon the subject, the President be, and he is hereby, authorized, if he deem the same expedient, to accept the services of any number of volunteers not exceeding fifty thousand, in the manner provided for in an Act entitled "An Act authorizing the President of the United States to accept the services of volunteers, and to raise an additional regiment of dragoons or mounted riflemen," approved May 23, 1836.

Section 4. And be it further enacted, That, in the event of either of the contingencies provided for in this Act, the President of the United States shall be authorized to complete the public armed vessels now authorized by law, and to equip, man, and employ, in actual service, all the naval force of the United States; and to build, purchase, or charter, arm, equip, and man such vessels and steam-boats on the Northern lakes and rivers whose waters communicate with the United States and Great Britain, as he shall deem necessary to protect the United States from invasion from that quarter.

Section 5. And be it further enacted, That the sum of ten millions of dollars is hereby appropriated and placed at his disposal for the purpose of executing the provisions of this Act; to provide for which the Secretary of the Treasury is authorized to borrow money on the credit of the United States, and to cause to be issued certificates of stock, signed by the Register of the Treasury, for the sum to be borrowed, or any part thereof; and the same to be sold upon the best terms that may be offered after public notice for proposals for the same: Provided, That no engagement or contract shall be entered into which shall preclude the United States from reimbursing any sum or sums thus borrowed after the expiration of five years from the first of January next; and that the rate of interest shall not exceed five per cent., payable semi-annually.

Section 6. And be it further enacted, That the sum of eighteen thousand dollars be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for outfit and salary of a special Minister to Great Britain: Provided, The President of the United States shall deem it expedient to appoint the same.

Section 7. And be it further enacted, That in the event of either of the contingencies provided for in the first and third sections of this Act, the President of the United States shall be authorized to apply a part not exceeding one million of dollars of the appropriation made in this Act to repairing or arming fortifications along the seaboard and frontier.

Section 8. And be it further enacted, That whenever militia or volunteers are called into the service of the United States, they shall have the organization of the Army of the United States, and shall receive the same pay and allowances.

Section 9. And be it further enacted, That the several provisions of this Act shall be in force until the end of sixty days after the meeting of the first session of the next Congress, and no longer.

(Signed) JAMES K. POLK,  
*Speaker of the House of Representatives.*

(Signed) WM. R. KING,  
*President pro tem. of the Senate.*

Approved, March 3, 1839.

(Signed) M. VAN BUREN.

No. 6.

*Viscount Palmerston to Mr. Fox.*

(Extract.)

*Foreign Office, April 6, 1839.*

I HAVE received and laid before the Queen your despatch of the 7th ultimo, relative to the occurrences which have lately taken place between the authorities of Maine and of New Brunswick, with respect to the disputed territory.

Her Majesty's Government approve of the provisional agreement which you signed with Mr. Forsyth on the 27th of February, and which they trust will have the desired effect of preventing any conflict from arising out of these local proceedings, until the matter at issue can be amicably arranged between the two Governments.



No. 7.

*Viscount Palmerston to Mr. Fox.*

Sir,

*Foreign Office, April 6, 1839.*

I INCLOSE for your information a copy of a note which I have received from Mr. Stevenson, dated the 30th ultimo, inviting the immediate attention of Her Majesty's Government to the subject of the pending controversy with respect to the north-eastern boundary of the United States, and to the occurrences which have lately taken place between the authorities of Maine and of New Brunswick. I also inclose a copy of my answer to Mr. Stevenson's note; and of Mr. Stevenson's reply.

I am, &c.,  
(Signed) PALMERSTON.

Inclosure 1 in No. 7.

*Mr. Stevenson to Viscount Palmerston.**Portland Place, March 30, 1839.*

THE Undersigned, Envoy Extraordinary and Minister Plenipotentiary from the United States, has the honour to acquaint Lord Viscount Palmerston, Her Majesty's Principal Secretary of State for Foreign Affairs, that he has recently received from his Government special instructions, which make it his duty to invite the immediate attention of Her Majesty's Government to the subject of the pending controversy in relation to the north-eastern boundary of the United States, and the painful occurrences which have lately taken place between the authorities of Maine and New Brunswick; of the character and extent of which, Her Majesty's Government are doubtless in possession of full and authentic information.

In hastening to fulfil the wishes of his Government, the Undersigned feels that it would be useless and unprofitable to recur to a recapitulation of the considerations and arguments which he has heretofore had the honour of urging upon the attention of Her Majesty's Government, as to the importance of an immediate settlement of this controversy, or the evils which would inevitably spring from continued delay. This has been so recently done, and the anxious desire of his Government so repeatedly expressed, that the Undersigned would feel no small degree of embarrassment in attempting to add anything to the representations which he has heretofore made, and which his Lordship doubtless, so well understands.

The recent events which have taken place in Maine and New Brunswick, and the imminent peril to which the interests and well being of both countries are now hourly exposed, evince too strongly the urgency which calls for the immediate settlement of this controversy, to make it needful that the Undersigned should do more, than again invite the attention of Her Majesty's Government to the subject, and in the most solemn and earnest manner, invoke its speedy and prompt interposition.

Whilst the Undersigned, however, feels assured that Her Majesty's Government is not less sincerely anxious for the amicable adjustment of this controversy, than that of the United States, it is cause of deep regret that it should not have suited the convenience of Her Majesty's Government to have adopted the necessary measures to meet the just expectations of that of the United States, by advancing the pending negotiation providing for the survey and exploration of the disputed territory. Assurances that suitable measures for that purpose would be immediately adopted, and instructions forwarded to Mr. Fox, Her Majesty's Minister at Washington, were long since given to the Undersigned, and by him communicated for the information of his Government. These assurances, for reasons no doubt sufficiently strong to justify the delay, have not been fulfilled, nor has any answer yet been received, as to the final determination of Her Majesty's Government on the subject. Whatever the causes, therefore, may have

been which have delayed these instructions, the time has now arrived which makes it indispensibly the duty of both Governments that the subject should not remain longer unsettled.

Indeed, if Her Majesty's Government needed additional proofs of the danger of longer delay, and impatience under it, they are to be found in the late proceedings on the northern frontier, and the embarrassing difficulties which have arisen between the State and Provincial authorities of Maine and New Brunswick.

Both Governments must now be aware of the serious difficulties which such proceedings are calculated to throw in the way of all attempts at conciliation. Passions highly exasperated under impressions of injury and wrong, or collisions between parties interested, can have no other effect than to protract and embitter a controversy which might otherwise be happily terminated.

Indeed, the experience of every day shows, more and more, the obligations on both sides to enter seriously into the means of guarding the peace and harmony of the two countries against the dangers by which they are threatened, and preventing those repeated collisions which have already, more than once, put in jeopardy their peaceful relations. It would be lamentable, indeed, if whilst the two Governments, to whom it belongs to decide this controversy, were delaying the negotiation for its final settlement, the peace of the two countries should be involved by discussions and conflicts between the local authorities upon points of minor importance, and consequences ensue which all would have such just cause to deplore.

Deeply lamenting then, as the President sincerely does, the delay which has already taken place, whatever its cause may have been, the Undersigned has been specially instructed, in bringing the subject again before Her Majesty's Government, to express the confident hope that no further delay will be suffered to take place; that the motives derivable from a knowledge of the recent occurrences will be too cogent to be disregarded, and that Her Majesty's Government will take immediate measures to bring the negotiation to an end, and avert the calamities which now impend over the two countries.

That this appeal will not have been made in vain, the Undersigned will not for a moment permit himself to doubt.

Lord Palmerston has probably already been apprized that among the proceedings of the Congress of the United States at the close of its late Session, provision was made for a special mission to Great Britain in relation to the subject of this controversy, should it in the opinion of the President be deemed advisable to appoint one.

In virtue of this provision, the Undersigned has now the honour of acquainting his Lordship, that the President of the United States (desirous of conforming to the indicated wishes of Congress) has directed him to announce to Her Majesty's Government his willingness to institute such a mission, and change the place of negotiation, which had heretofore been agreed on, from Washington to London, provided it should be agreeable to Her Majesty's Government to do so, and would, in their opinion, be the means of hastening or facilitating the final adjustment of the controversy.

In submitting this proposition of the President to Her Majesty's Government, which he has now the honour of doing, the Undersigned flatters himself that Lord Palmerston will not fail to appreciate the motives which have influenced the President in making it; and see in it, not only an additional proof of his desire to terminate amicably this protracted and painful controversy, but the earnest solicitude which he feels to place the relations of the two countries beyond the reach of those casualties by which, in the present state of things, they are so liable to be injured.

To this proposition the Undersigned has been directed respectfully to urge the early consideration of Her Majesty's Government.

The importance and urgency of bringing to a speedy close the pending negotiation, and the existing embarrassments in which the two countries are now placed will, the Undersigned persuades himself, sufficiently explain the earnestness with which he has pressed the subject upon the consideration of Lord Palmerston; and in closing this note he can but indulge the confident hope, that the final determination of Her Majesty's Government will not only correspond with the just expectations which are entertained by his own Government, but that it will be the means of leading to such an adjustment of the whole controversy as



may be compatible with the just rights and honour of the two countries, and those peaceful and friendly relations, upon the preservation of which so essentially depend the prosperity and happiness of both.

The Undersigned seizes the occasion, &c.,

(Signed)

A. STEVENSON.

Inclosure 2 in No. 7.

*Viscount Palmerston to Mr. Stevenson.*

*Foreign Office, April 3, 1839.*

THE Undersigned, &c., has the honour to acknowledge the receipt of the note of Mr. Stevenson, &c., dated the 30th instant, inviting the immediate attention of Her Majesty's Government to the subject of the pending controversy with respect to the north-eastern boundary of the United States; and to the painful occurrences which have lately taken place between the authorities of Maine and of New Brunswick.

The Undersigned begs leave to state, in reply to Mr. Stevenson's note, that Her Majesty's Government fully share the opinions expressed by the Government of the United States as to the importance of a final settlement of the Boundary Question; and they partake the anxiety felt by that Government that such settlement should be arrived at with as little delay as the nature of things will admit; and Her Majesty's Government flatter themselves that they have given indisputable proofs of their sincerity on this matter; first, by accepting without hesitation, the award of the King of the Netherlands, however disadvantageous to Great Britain; and by adhering to that award until the United States had irrevocably determined to reject it; and secondly, by afterwards proposing to solve the question by dividing equally between the two parties the territory which is in dispute. If, then, the difference between the two countries has not been long since settled, it is not for want of proposals on the part of Great Britain, which, as it appears to Her Majesty's Government, were in their nature honourable for both parties.

With respect to the events that have recently occurred between Maine and New Brunswick, Her Majesty's Government deeply deplore that any circumstances should have arisen tending to threaten an interruption of the friendly relations between the two countries; but Her Majesty's Government cannot refrain from observing, that if any collision shall unfortunately have taken place between the people of Maine and the authorities of New Brunswick, that collision will have been brought on by hostile proceedings on the part of Maine, planned and decided upon in secret; executed suddenly and without previous notice; and so conducted, that if it had been the intention of the Government of Maine to provoke a conflict, better means could not well have been devised to attain that end. Her Majesty's Government, however, feel great pleasure in doing the fullest justice to the wise and enlightened course pursued upon this occasion by the President of the United States; and they beg Mr. Stevenson to assure the President, that the British Government is equally animated by the same spirit of peace which has guided the councils of the President in this conjuncture of affairs.

Her Majesty's Government consider the communication which Mr. Stevenson has been instructed to make to the Undersigned upon the subject of the proposed mission of a special Envoy to England, as a fresh proof of the friendly disposition of the President, and of the frankness which, it is hoped, will always characterize the intercourse between the two Governments; and Her Majesty's Government hasten to reply to that communication in the same spirit, and with the same frankness. The President is desirous of knowing whether such a mission would be agreeable to Her Majesty's Government, and whether it would, in their opinion, be the means of hastening or facilitating the final adjustment of the controversy? That it would always be agreeable to Her Majesty's Government to receive any person enjoying the confidence of the President, and sent hither to treat of matters affecting the interests of both countries, the Undersigned is persuaded that the Government of the United States cannot possibly doubt, but Her Majesty's Government do not see that in the present state of the negotiation, such a mission could be likely to hasten or facilitate the adjustment of the controversy.

It was the wish of the British Government in 1831, when the award of the King of the Netherlands was given, that any further negotiation which might be necessary upon this subject should be carried on in London. But the Government of the United States expressed a strong desire that the seat of negotiation should be Washington, and the British Government acquiesced in that arrangement.

The question at present to be considered is, whether any advantages would arise from transferring the negotiation to London? Now, undoubtedly, if the state of the negotiation were such that the two Governments were at liberty to arrive at a final and immediate settlement of the controversy, by a conventional division of the territory in dispute, Her Majesty's Government would be of opinion that advantage might arise from the mission proposed to be sent to this country by the Government of the United States. But Maine having refused to agree to a conventional line, and another reference to arbitration being, in the present state of the matter, out of the question; the only course left open for the two Governments, with a view to arrive at a solution of the controversy, is to cause a fresh survey of the territory to be made for the purpose of endeavouring to trace upon the ground itself the line of the Treaty of 1783; and the Undersigned is sending to Mr. Fox, for the consideration of the President, a draft of a Convention for the purpose of regulating the proceedings of the Commissioners to be appointed by the two Governments for this end; and Her Majesty's Government hope that the report of these Commissioners will either settle the questions at issue, or furnish to the two Governments such information as may lead directly to a settlement. But this being the present state of the matter, it appears to Her Majesty's Government that a Special Envoy now sent from America would not, upon his arrival in this country, find anything to discuss or to settle in connexion with this question, the discussion or settlement of which could be of importance commensurate with the expectations which such a mission would naturally excite on both sides of the Atlantic; and that if in consequence thereof, the Envoy so sent were to return to the United States before the two Governments had finally settled the whole question, a disappointment might thereby be created, which, however unfounded it would be, might nevertheless produce bad effects in both countries.

Her Majesty's Government having thus stated, without reserve, their impression upon this matter, leave the decision of it to the President; and the Undersigned has only further to assure Mr. Stevenson that Her Majesty's Government are very sensible to the spirit of friendly confidence which has dictated Mr. Stevenson's communication.

The Undersigned, &c.,

(Signed)

PALMERSTON.

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Inclosure 3 in No. 7.

*Mr. Stevenson to Viscount Palmerston.—(Received April 6, 1839.)*

*Portland Place, April 4, 1839.*

THE Undersigned, Envoy Extraordinary and Minister Plenipotentiary from the United States, has the honour to acknowledge the receipt of the communication addressed to him by Lord Viscount Palmerston, Her Majesty's Principal Secretary of State for Foreign Affairs, under date of the 3rd instant, in answer to that of the Undersigned of the 30th of March, upon the subject of the disputed Boundary between the North Eastern portion of the United States, and Her Majesty's Colonial Possessions.

The Undersigned will take the earliest opportunity of transmitting this note to his Government, and he begs Lord Palmerston to believe, that it will afford him the highest gratification to accompany it with the assurance, which his Lordship has been pleased to give, that whilst Her Majesty's Government is disposed to do full justice to the wise and enlightened course which has been adopted by the President of the United States, in relation to the late occurrences on the frontier, it is equally animated by the same spirit of conciliation and peace, with that which has guided the Councils of the President in the present conjuncture of affairs.

Entertaining, as the President does, an anxious desire for the adjustment of



a controversy which has unhappily so long existed between the two Countries, the Undersigned seizes the occasion to assure Lord Palmerston that the President will not fail to receive with the liveliest sensibility the friendly sentiments which have been so kindly manifested in his Lordship's note, as well on the part of himself, as that of Her Majesty's Government.

The Undersigned begs leave also to state to Lord Palmerston, that he has not failed to notice with painful regret, that part of his Lordship's note in relation to the late proceedings of the State of Maine, in which his Lordship is pleased to express the opinion, that if any collision should unfortunately have taken place between the people of that State and Her Majesty's Colonial Authorities, it will have been brought on by hostile proceedings on the part of Maine, planned, and conducted, in a manner, which if it had been the wish of the Government to provoke a conflict, better means could not have been devised to attain such an end.

In dissenting, as the Undersigned does, from the opinion expressed by Lord Palmerston, he does not intend to be drawn into an examination or discussion of the causes out of which the late proceedings on the frontier have arisen, nor to decide on whom the responsibility would justly fall for any evils that might ensue from them.

Regarding the proceedings and conduct of Maine, however, in a light wholly different from that supposed by his Lordship, the Undersigned deems it proper to say, that he has seen nothing in the history of these proceedings, which would seem to justify the opinion expressed by his Lordship, in reference to the conduct of the authorities of Maine.

The Government of Maine have doubtless acted under the high obligations of duty. They felt the necessity of protecting themselves from the unjust operation of measures with which they had been threatened by the British Colonial Authorities, and with that view, took the steps that were finally adopted.

The proceeding was neither hostile nor minatory in its character, but one intended for purposes of precaution and defence.

In exercising then the rights of self-defence under a state of things, certainly, equally, and mutually, to be lamented by both Governments, it is not perceived how the responsibility of any collision which might have ensued, can rightfully attach to Maine. To regard these proceedings in any other light than defensive, would be doing injustice not only to the Government of Maine, but to the patience with which its people have endured, and the moderation with which they have sought, in the vindication of what they believed to be their just rights, to guard against collision or disagreements between the two Governments. These are the observations which in justice to the people and authorities of Maine, the Undersigned has felt it his duty to make.

The Undersigned cannot consent to close this correspondence, without availing himself of the opportunity of expressing to Lord Palmerston his high gratification at the conciliatory and friendly spirit which his Lordship has manifested throughout this negotiation; and the earnest desire which is mutually felt, that out of the unfortunate occurrences, which have recently transpired, an occasion may arise, which being improved (as it doubtless ought to be by the two Governments) may lead to a speedy adjustment of this protracted controversy, and to more solid and lasting friendship between the two countries.

The Undersigned renews to Lord Palmerston assurances of his distinguished consideration.

(Signed) A. STEVENSON.

No. 8.

*Viscount Palmerston to Mr. Fox.*

Sir,

*Foreign Office, April 6, 1839.*

I INCLOSE for your information and guidance, a copy of a private letter which I addressed to Mr. Stevenson on the 3rd instant, stating shortly the sub-

stance of what I had previously said to him in conversation, upon the question of jurisdiction in the disputed territory. Mr. Stevenson informed me that he had received no instruction from his Government upon this point.

I am, &c.,  
(Signed) PALMERSTON.

Inclosure in No 8.

*Viscount Palmerston to Mr. Stevenson*

My dear Sir,

*Stanhope Street, April 3, 1839.*

I HAVE great pleasure in complying with your wish that I should state shortly in writing, the substance of what I have said to you in conversation upon the question of jurisdiction in the disputed territory.

What has lately passed upon that subject, in Congress, is a fresh proof of the close relationship of the two nations, and shows that our habit of not reading, or of soon forgetting Parliamentary Papers, prevails equally in Congress with regard to papers laid before that body. For if those who took part in the recent debates at Washington had borne in mind the papers communicated by the President to Congress in 1829, they would not have asserted, that our claim to jurisdiction is a new one; nor would they, I think, have construed it in the unqualified sense in which they appear to have understood it.

The grounds and nature of our claim on this point were explained by Sir Charles Vaughan, in a note to Mr. Clay, of the 16th September, 1827; and the very qualified and limited manner in which the claimed right has been exercised, was stated by Sir Howard Douglas in a despatch to Sir Charles Vaughan of the 4th October, 1827, which was communicated to Mr. Clay by Sir Charles Vaughan on the 26th of that month. The nature and grounds of the British claim were further explained by Sir Charles Vaughan in February, 1828; and by Lord Aberdeen in his note of 14th August, 1828.

From this correspondence, it will be seen that we have not pretended to exercise any new act of sovereignty over any part of the disputed territory, since the conclusion of the Treaty of Ghent; and that the jurisdiction we claim over the unsettled and unoccupied part of the district, is in reality only safe custody of the property, for the benefit of the future owner, and the prevention of the assemblage of lawless and disorderly persons therein, to the annoyance and injury of the neighbouring districts.

As a proof that we have not claimed that exercise of sovereignty which we are supposed in the United States to contend for, I would beg to remind you that two years ago, upon a representation from your Government, we put a stop to a plan for making a railway across the disputed territory, from Quebec to St. Andrews, because the making of a new road would have implied an acknowledged right of sovereignty on our part, while that right is the very question in dispute; and last year, as you will remember, we did not think ourselves at liberty to march troops across the territory from New Brunswick to Canada, without coming to a previous understanding with your Government upon that operation.

Of course, however, we are entitled to expect that such abstinence should be mutual, and that neither party should, while the general question is pending, make settlements, cut timber, open roads, or establish military occupation in the disputed territory.

I am, &c.,  
(Signed) PALMERSTON.



## No. 9.

*Viscount Palmerston to Mr. Fox.*

(Extract.)

*Foreign Office, April 6, 1839.*

I HEREWITH transmit to you the Draft of a Convention between Great Britain and the United States of America, which Her Majesty's Government have prepared, for the purpose of carrying into effect, with some modifications, the proposal which the American Government have made to Her Majesty's Government, for the appointment of a new Commission of Exploration and Survey, with a view to settle and determine the Boundary Line between the British Province of New Brunswick and the State of Maine.

In this project of Convention, no mention is made of an umpire, because, as the Draft is now framed, and according to the understanding between the two Governments upon which it is founded, there would be no proper functions for an umpire to perform; and, moreover, because, as neither the United States, the State of Maine, nor Her Majesty's Government are at present willing to submit the points at issue to another arbitration, there is no reason for appointing an umpire.

The stipulation that the Commissioners should begin their work from the head of the River St. Croix, the last ascertained point in the easternmost portion of the Boundary as acknowledged by both parties, is a natural arrangement, because, it is from that point that the connecting line, either due North, or to the westward of the North, is to be drawn to the Highlands that are to be sought for; and that connecting line should of course stop at the point where it first touches the Highlands in question. It seems also proper, that the Commissioners should begin by exploring the due North line, because, if the Highlands which are sought for could be found in that line, one of the conditions of the Treaty would be literally fulfilled; and because it would be necessary, at all events, that the Commissioners should have failed in finding the Highlands in that direction, before they should seek for them in another.

It seems also to be proper and natural, that, if the Commissioners should fail to find in the due North line the Highlands they are in search of, they should then proceed to the other extremity of the undetermined line, as the appropriate basis of their further operations; that is to say, that they should then go to the easternmost points of those Highlands, which lying near the sources of the Chaudière and the Penobscot, have already been ascertained by the British and American Commissioners under the Treaty of 1814, as fulfilling at that part of the Boundary, the conditions of the Treaty of 1783; and that the Commissioners should from thence pursue their survey over the different parts of the disputed territory, lying between the point aforesaid, and the due North line from the source of the River St. Croix.

In that part of the Preamble which quotes the proposal of the American Government, and which states, that when the Highlands shall be found, the Commissioners shall draw a line from the monument to the said Highlands, Her Majesty's Government have purposely omitted the words, "and to that point thereof which shall be nearest to a due North line from the monument;" because those words are susceptible of an ambiguous interpretation, and are not as precise and distinct as is desirable in a Convention of this kind; but words have been inserted in Article VII, which embody the sense of the omitted words in a clearer and more definite shape.

The object of the proposed exploration and survey, is to find the Highlands of the Treaty. If they can be found in the meridian of the St. Croix, the conditions of the Treaty would be fulfilled, and a line would be drawn to them from the St. Croix in a due northerly direction. But if such Highlands cannot be found in the meridian of the St. Croix, they are to be sought for elsewhere to the westward; and wherever they may be found, a line should be drawn to that spot from the head of the St. Croix, with this qualification in favour of the United States, that if such Highlands should be found to preserve for any extent of space the character required by the Treaty, the connecting line should be drawn to the

easternmost spot, within the disputed territory, at which they possess that character.

Nothing has been said in the proposed Convention about the north-west angle of Nova Scotia, because that angle will be at the point where the line drawn from the head of the St. Croix meets the Highlands of the Treaty of 1783.

If the north-west angle of Nova Scotia had been a point already marked out upon the ground, or if it were a point so accurately defined by verbal description, that the Commissioners could at once have marked it down upon the ground, Her Majesty's Government would have proposed, that the first duty of the Commissioners should have been to have proceeded in a due north line from the head of the St. Croix to the north-west angle of Nova Scotia. Her Majesty's Government would have proposed that such north-west angle should be deemed to be, as it obviously must be, the point at which such due north line should meet the line which divides New Brunswick from Lower Canada; and therefore, if the boundary between Lower Canada and New Brunswick were a known and ascertained line, nothing could be easier than to find the north-west angle of Nova Scotia. But although the line of boundary between Lower Canada and New Brunswick is laid down in some maps, and especially in the map of Canada published in 1831, by M. Bouchette, I have reason to believe that no such boundary has been actually traced out upon the ground, or is known to and acknowledged by, the two Provinces respectively. That boundary is believed hitherto to exist only in description, and not to have been marked out; and the description from which it would have to be marked out, being very nearly the same as the description which, by the Treaty of 1783, defines this part of the boundary between the British Possessions and the United States, the north-west angle of Nova Scotia, and the last mentioned portion of boundary are both of them equally unknown things, and neither can at present be used for the purpose of ascertaining the other.

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#### Inclosure in No. 9.

#### *Draft of Convention between Great Britain and the United States of America.*

#### PREAMBLE.

WHEREAS that portion of the boundary between the British Dominions in North America and the United States of America, described in the Treaty of Peace signed at Paris on the 3rd of September, 1783, as formed by "a line drawn due north from the source of the St. Croix River to the Highlands; along the said Highlands which divide those rivers that empty themselves into the River St. Lawrence from those which fall into the Atlantic Ocean, to the north-westernmost head of the Connecticut River; thence down along the middle of that river to the forty-fifth degree of north latitude; from thence by a line due west on said latitude until it strikes the River Iroquois or Cataraguy," has not yet been ascertained or determined. And whereas by the stipulations of a Convention between Great Britain and the United States of America, signed at London on the 29th of September, 1827, the points of difference which had arisen out of the proceedings of the Board of Commissioners, to whom the designation and demarcation of the said portion of boundary was entrusted, under the Vth Article of the Treaty signed at Ghent on the 24th of December, 1814, were referred to the arbitration of the King of the Netherlands. And whereas the decisions and opinions given by His Netherland Majesty thereupon, as laid down in His said Majesty's award, signed at the Hague, on the 10th of January, 1831, failed to adjust the said points of difference. And whereas the Government of the United States of America, in an official note addressed to the Government of Her Britannic Majesty on the 30th of April, 1833, and in explanatory notes dated the 28th of May and 5th of June, 1833, proposed that "a new Commission should be appointed, consisting of an equal number of Commissioners" for each Party; and that the Commissioners so to be appointed should, "discarding the due north line, should that become necessary, seek for and find, in the first place, 'the Highlands which divide those rivers that empty themselves into the St. Lawrence from those which fall into the Atlantic Ocean;' and when these shall be found in any part of the disputed territory north or south of the St. John's River,



to draw a line from the monument, (meaning thereby the monument placed at the source of the River St. Croix by the Commissioners of the High Contracting Parties under the Treaty of 1794,) to the said Highlands; it being distinctly admitted by the Government of the United States of America, that they make no pretensions to any deviation eastward from the direct north line from the St. Croix." And whereas the Government of Her Britannic Majesty agreed, in an official note dated November 19, 1837, to the appointment of such a new Commission of Survey, to be constituted of "Commissioners named in equal numbers by each of the two Governments;" stating at the same time, that the "object of the Commission, as understood by Her Majesty's Government, would be to explore the disputed territory, in order to find within its limits dividing Highlands which may answer the description of the Treaty, the search being first made in the due north line from the monument at the head of the St. Croix; and if no such Highlands should be found in that meridian, the search to be then continued to the westward thereof;" and stating also their opinion, "that in order to avoid all fruitless disputes as to the character of such Highlands, the Commissioners should be instructed to look for Highlands which both Parties might acknowledge as fulfilling the conditions required by the Treaty." And whereas the Government of the United States, in an official note, dated April 27, 1838, expressed their "willingness to enter into an arrangement with Great Britain for the establishment of a joint Commission of Survey and Exploration, upon the basis of the original American proposition, and the modifications offered by Her Majesty's Government." Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and the President of the United States of America, have now deemed it expedient again to attempt a settlement of the differences aforesaid, in conformity with the spirit and meaning of the aforesaid Treaty of 1783, by the appointment of a new Commission of Exploration and Survey, upon the principles agreed upon between the two Governments; and Her said Majesty, and the President of the said United States, having resolved to conclude a Convention for regulating the operations of such Commission, they have named as their Plenipotentiaries for this purpose, that is to say:—

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, &c.

And the President of the United States of America, by and with the advice and consent of the Senate thereof, &c.

Who, after having communicated to each other their respective full powers, found to be in due form, have agreed upon and concluded the following Articles:

#### ARTICLE I.

Within [three] months after the exchange of the Ratifications of the present Convention, the Two High Contracting Parties shall appoint a Commission, to be composed in the following manner:—Three Commissioners shall be named by Her Britannic Majesty, and three by the President of the United States of America, by and with the advice and consent of the Senate thereof. And these six Commissioners so appointed, shall have power to appoint a Secretary and such other assistants as they shall judge necessary to enable them to execute efficiently the duties of their Commission.

#### ARTICLE II.

The said Commissioners shall meet in the first instance at the town of [St. Andrews, on the River St. Croix], and shall have power to adjourn their meetings to such other place or places as they shall think fit. But before they enter upon the duties of their offices, they shall, each in the presence of all the others, make oath or affirmation, before the principal magistrate residing or acting at the said town of [St. Andrews], that they will impartially examine and decide, according to the best of their skill and judgment, all points relating to their duties as Commissioners; and having done this, they shall then forthwith enter upon the discharge of their duties as hereinafter defined.

## ARTICLE III.

The Commissioners so appointed shall proceed in the first instance to an examination and survey of the territory in dispute between the High Contracting Parties, which territory is comprised within a space bounded, on the east, by a line drawn due north from the source of the River St. Croix, as marked by the monument described in the preamble of the present Convention; and on the south, the west, and the north, by the two lines of boundary extending to the westward of the said due north line, and which were claimed on behalf of the two High Contracting Parties respectively, by their Commissioners, appointed under the Vth Article of the Treaty of Ghent. The object of such examination and survey shall be, to endeavour to find, at any point within the limits of the said disputed territory, Highlands answering to the description contained in the Treaty of 1783; that is to say, "Highlands which divide those rivers that empty themselves into the River St. Lawrence, from those which fall into the Atlantic Ocean."

## ARTICLE IV.

The line of Boundary having already been ascertained and agreed upon from the mouth of the St. Croix River as far as the monument aforesaid placed at its source; and it having been agreed that the first object of the Joint Commission to be appointed under the present Convention is to endeavour to discover Highlands answering to the description contained in the Treaty of 1783, as quoted in the preceding Article, upon a due north line from the said monument, it is agreed that the point of departure of the new Commission shall be the aforesaid monument.

## ARTICLE V.

As any deviation eastward from the due north line is disclaimed by the United States of America, as recorded in the American proposition referred to in the preamble of this Convention, the Commissioners, if they should fail to discover Highlands on their direct northern course, shall next proceed to those Highlands at the sources of the Chaudière and of the Penobscot, which, as already ascertained by the British and American Commissioners respectively under the Treaty of 1814, to fulfil, at that part of the disputed territory, the conditions required by the Treaty of 1783; and the Commissioners taking as the basis of their further operations that extremity of the said Highlands at the sources of the Chaudière and of the Penobscot, which is nearest to the due north line, shall from that point commence anew their exploration of the disputed territory lying eastward between such point and the due north line.

## ARTICLE VI.

When the Commissioners shall have found Highlands which they shall jointly and unanimously agree to consider as answering to the description contained in the III<sup>d</sup> Article of the present Convention, they shall draw up a report to that effect, in duplicate, to which report each Commissioner shall affix his signature and seal in the presence of all the others; and one original of such report shall be forwarded by the British Commissioners to the Government of Her Britannic Majesty, and the other original shall be forwarded by the American Commissioners to the Government of the United States.

The two High Contracting Parties formally agree to consider the report of the Commissioners, so authenticated, as final and conclusive upon this point, and as binding upon both parties.

## ARTICLE VII.

As soon as the Commissioners shall have transmitted to their respective Governments the aforesaid report, the said Commissioners shall at once proceed to



draw a direct line from the monument at the source of the River St. Croix to the said Highlands at the easternmost place within the disputed territory, at which they shall be found in the manner stated in the preceding Article to fulfil the conditions of the Treaty of 1783; and the line so drawn shall be deemed and taken by the two Contracting Parties to be a portion of the Boundary line between the British and American territories, as intended by the Treaty of Peace of 1783.

The Commissioners shall next proceed to mark out the said line, and to make a map thereof in duplicate. They shall certify the accuracy of such map by a declaration to be attached to it under their hands and seals, and shall particularize the latitude and longitude of any points in the said line, as they may deem proper. One copy of such map shall be transmitted to each Government by its own Commissioners; and both the High Contracting Parties agree to consider such map and declaration as finally and conclusively fixing the said portion of the Boundary between their respective territories.

#### ARTICLE VIII.

The said Commissioners shall next proceed, in conformity with the provisions of the Treaty of 1783, to trace and lay down the Boundary line along the said Highlands, in as straight a direction as the features of the country shall admit, from the point where the line, drawn in pursuance of the preceding Article, from the head of the St. Croix, shall meet the said Highlands, to the north-westernmost head of the Connecticut River, thence down along the middle of that river to the 45th degree of north latitude, and from thence by a line running due west on that latitude, until it strikes the River St. Lawrence, called in the said Treaty of 1783, the River Iroquois or Cataraguy.

Whenever the said Commissioners shall have jointly agreed upon this portion of the Boundary, or upon any part thereof, they shall report their decision to their respective Governments, and shall then at once proceed to mark out and make a map of the said Boundary, or of any part thereof upon which they may have agreed, exactly in the same manner as is prescribed with respect to the other portion of the said Boundary. And the two High Contracting Parties hereby agree to consider such report and map as finally and conclusively fixing the said Boundary, or any part thereof, as aforesaid, and as being binding upon both parties.

#### ARTICLE IX.

In the event of the said Commissioners differing in opinion upon any point or points which may come within the scope of their duties, they shall draw up, either jointly or separately, a report or reports, in duplicate, in which they shall state in detail the points upon which they differ, and the grounds upon which their respective opinions have been formed. One original of every such report or reports, together with copies of all papers or maps annexed thereto, shall be transmitted by the British Commissioners to the Government of Her Britannic Majesty; and the other original, together with similar copies of the maps or papers annexed thereto, shall be transmitted by the American Commissioners to the Government of the United States.

#### ARTICLE X.

It is further agreed, that the salaries of the said Commissioners shall be defrayed by their respective Governments; but all other expenses attending the Commission shall be defrayed in equal portions by the two High Contracting Parties.

In case of the death, resignation, absence, or disability from any cause, of any Commissioner, the Government by which he was appointed shall name a successor with the least possible delay; and each new Commissioner shall be bound to take the same oath or affirmation, and to perform the same duties, as his predecessor.

## ARTICLE XI.

The present Convention shall be ratified, and the ratifications shall be exchanged in London within a period of [six weeks].

In witness whereof, the respective Plenipotentiaries have signed the same, and have affixed thereto the seals of their arms.

Done at Washington, the                      day of                      in the year  
of our Lord one thousand eight hundred and thirty-nine.

No. 10.

*Mr. Fox to Viscount Palmerston.—(Received April 11, 1839.)*

My Lord,

*Washington, March 10, 1839.*

THE inclosed corrected report has been printed, of a speech delivered in the House of Representatives by Mr. Biddle, one of the members from the State of Pennsylvania, during the late discussion upon the Defence Bill.

A document of great importance, and which I had not before seen, is quoted by Mr. Biddle's speech; namely, a set of resolutions passed by the Legislature of the State of Massachusetts, in the year 1836; which resolutions distinctly admit the right to exclusive jurisdiction, or the fact, at least, of the uninterrupted and undisputed exercise thereof, by Great Britain, pending the negotiation for the settlement of the Boundary Question.

I have, &c.,  
(Signed) H. S. FOX.

Inclosure in No. 10.

*Remarks of Mr. Biddle on the subject of the North-Eastern Boundary, in the House of Representatives, March 1, 1839.*

MR. BIDDLE said he fully concurred in the sentiment expressed by the gentleman from Massachusetts, [Mr. Adams.] that it was of the utmost importance to guard carefully against any false movement. We occupied now a high vantage-ground, from which we ought not, if possible, to be allured or driven. The subject had come upon us rather unexpectedly in its new aspect. The matter of jurisdiction is a subordinate one. With little time for examination, we are summoned to make an assertion that involves personal veracity, and perhaps, the peace and dignity of the country. We are asked to take the burden of proving to Great Britain, and the world, that there is no trace in the diplomacy of the country, of ought to countenance the pretension set up by the Lieutenant-Governor of New Brunswick.

Of the great question of right there cannot be a doubt. Mr. B. said that, from an early and deliberate examination of the whole controversy, he had been satisfied that our title was perfect, to the territory in dispute, and that England had not a shadow of just claim. So decided and earnest were his convictions, that he had long ago startled many of his constituents, by adverting to the chances of a war on this subject.

England will hold on to the last moment. A glance at the map discloses the vast importance to her of the debateable ground. It lies between her possessions on the Atlantic sea-coast and the St. Lawrence; and over it is the only route by which troops can be speedily passed from Halifax and St. John's, to Quebec. During the late disturbances in Canada, the forces were marched across this territory without our permission, whereas, had it been within the undisputed limits of the United States, they must have either obtained our assent, or esorted to the tedious and dangerous passage by the mouth of the St. Lawrence



Owing to the delays attendant on the settlement of the principal question, there has been imparted to an incidental point, a degree of importance which it did not originally possess, or merit. I mean the condition of the disputed territory pending the efforts at adjustment.

During the earlier stages of the negotiation, there was preserved with great distinctness, an understanding that each party should continue to possess that portion which was in actual occupancy, but do nothing to extend or fortify its pretensions over what lay in a wild state. Great Britain, however, now alleges, that an understanding has grown up, in later times, by which the temporary guardianship over the whole region has been imparted to her exclusively. This point has recently assumed, as I before remarked, an unexpected importance.

The State of Maine alleges that trespasses are committed on the disputed territory, by the cutting of timber, &c., and that the British authorities are not sufficiently alert in restraining this waste. Her Legislature lately, in secret session, took up the subject, and ordered a party to be dispatched, to arrest the trespassers. The Governor of New Brunswick, Sir John Harvey, deems this an invasion of the exclusive jurisdiction alleged to have been transferred to the English authorities. Maine denies the existence of any such agreement; arrests have been made on the one side and the other, and there have ensued declarations of a purpose to enforce these conflicting claims by arms.

It cannot but be regretted—if war must come—that our clear advantage in the main and original controversy should be lost sight of, or obscured by the prominence suddenly given to a matter incidental, temporary, and of no ingrossing importance. The President justly remarks, in his message:—

“The parties more immediately interested cannot but perceive that an appeal to arms, under existing circumstances, will not only prove fatal to their present interests, but would postpone, if not defeat, the attainment of the main objects which they have in view.”

Nor is it to be forgotten that a war, with its burden of taxation, will not long be carried on with vigor and unanimity, except on the broadest and most intelligible grounds. The late war was declared for injuries of a flagrant character, affecting particularly the Eastern States; yet, owing to our miserable dissensions, we were glad to accept the Treaty of Ghent, which adjourned the question of impressment, which gave up every dollar of our demands against England for her long career of spoliations upon our commerce, and which brought upon us this very curse of the Boundary Question. In the present state of the world, too, a decent respect for its judgment must be maintained, as well as an eye to the opinion which any friendly mediator may form of the pretexts for hostilities. The first years of any war between this country and a great European Power will always be disastrous to us. We never can be fully prepared at the outset. It is desirable, therefore, that we do not enter upon it, except for such palpable wrongs as may warrant and insure our carrying it out, unflinchingly, to any extremity.

I deprecate, therefore, the getting up of this comparatively immaterial issue; more particularly as it is by no means certain that we have on it a clear and indisputable case. On the contrary, it may be feared that a review of the diplomatic correspondence will show that, owing to great looseness and remissness on our part, to say the least, there is colour for the pretension advanced by the agents of Great Britain.

How does the matter appear even on a hasty glance at the correspondence?

In a letter from Mr. Mc Lane, Secretary of State, to Sir Charles Vaughan, dated December 21, 1833, he says:—

“It is alleged that His Britannic Majesty’s officers of the Province of New Brunswick, by the seizure and sale of timber cut by trespassers on the Aroostook, and afterwards in the rightful custody of the Agent of the State of Massachusetts, have been the first to violate the existing understanding.”

Here, it will be seen, the very question now agitated was brought up more than five years ago. Mr. Mc Lane makes formal complaint that the British warden had taken out of the hands of the State authorities, timber seized by the

latter, as having been cut by trespassers on the Aroostook River. To this complaint the British Minister replied as follows:—

“ *Washington, February 28, 1834.*

“ The Undersigned, His Britannic Majesty’s Envoy Extraordinary and Minister Plenipotentiary, has the honour to communicate to the Secretary of State of the United States, the explanation which he has received from the Lieutenant-Governor of New Brunswick, of a transaction complained of by the Land Agent of Massachusetts, in a report communicated to the Undersigned in a note from Mr. Mc Lane, dated 21st December last.

“ The complaint arose out of the seizure of timber cut down without authority upon the disputed territory, and which, after having been seized in the first instance by the Land Agent of Massachusetts, was taken possession of and sold by the British Agent intrusted with the preservation of the disputed territory on the north-eastern frontier of the United States.

“ The explanation of this transaction is contained in an extract of a letter to the Undersigned from the Lieutenant-Governor of New Brunswick, and the report of Mr. Beckwith, the Surveyor-General of that Province, which the Undersigned has the honour to inclose in this note.

“ The seizure of the timber, in the first instance, by Mr. Coffin, the Land Agent of Maine [Massachusetts], was the exercise of authority within the conventional frontier of the Province of New Brunswick, which could not be admitted so long as the north-eastern boundary of the United States remains a subject of negotiation; and it appears that the proceeds of the sales of timber unlawfully cut down, are carried to account, and the possession of them will be appropriated to the party to which the territory may be adjudged by the settlement of the Boundary Question.

“ The Undersigned trusts that the explanation which he is now able to give of this transaction, will prove satisfactory to the Government of the United States.

“ The Undersigned has the honour to renew to Mr. Mc Lane, the assurances of his most distinguished consideration.

“ *The Hon. Louis Mc Lane,*  
*&c. &c. &c.”*

“ CHARLES R. VAUGHAN.”

The letter of the Lieutenant-Governor of New Brunswick, Sir Archibald Campbell, (the predecessor of Sir John Harvey,) thus inclosed by Sir Charles Vaughan to Mr Mc. Lane, is dated Frederickton, January 20, 1834, and contains the following explanation:—

“ Mr. Mc Laughlin was appointed to the wardenship of the country with the knowledge and concurrence of the President; and it is not conceived, therefore, that any fair ground of objection can be taken to his faithful performance of the duties of this office. But this Government never has admitted, and never can admit, the right of any agent from Maine or Massachusetts to exercise authority within the conventional frontier of the Province, while its proper limits remain a subject of negotiation.”

Mr. Mc Lane’s reply to Sir Charles Vaughan is as follows:—

“ DEPARTMENT OF STATE.

“ Sir,

“ *Washington, March 4, 1834*

“ I HAVE the honour to acknowledge the receipt of your note of the 28th ultimo, furnishing the explanation of the Lieutenant-Governor of New Brunswick, of a transaction referred to by the Land Agent of Massachusetts, in a letter addressed to his Excellency the Governor of that Commonwealth, and subsequently communicated to you by this Department, in a note dated the 21st of December last; and to inform you that copies of your communication, together with the documents which accompanied it, will, by direction of the President, be transmitted without unnecessary delay, to the Executive of the State of Massachusetts.

“ I pray you to accept the assurances of my distinguished consideration.

“ *Right Hon. Sir Charles R. Vaughan, G.C.H.,*  
*Envoy Extraordinary.”*

“ LOUIS Mc LANE.”



Is not this prodigiously strong? Here is a letter written five years ago by the predecessor of Sir John Harvey, appealing to a matter within the personal knowledge of the President of the United States, and broadly repelling any attempt at concurrent jurisdiction against trespassers on the Aroostook by the American authorities. The President orders the letter containing these averments to be transmitted without comment, it would appear, to the local authorities, for their guidance. It is remarkable, that, whilst the Governor of Massachusetts, in November, 1833, is found complaining about the pretensions of this Warden, there appears no remonstrance subsequent to the date of Mr. Mc Lane's letter, transmitting the "explanation" of Sir Archibald Campbell. Thus we are on the edge of a war, in which our manifesto is to state, as a justification to the world, that Mr. Harvey has ventured to repeat what his predecessor not only announced, but acted upon, with circumstances of indignity to the State agents! This unheard-of pretension is found not only in the letter book of his predecessor, but in the archives of Maine and Massachusetts, as placed there by order of General Jackson!

Let us turn, now, to the memorial of the Commonwealth of Massachusetts, in 1836, found amongst the records of this House, and see how it discloses, in every line, a distinct recognition of the agreement, as communicated to her Chief Magistrate by Mr. Mc Lane.

(Document No. 199.)

*"Resolutions of the Legislature of the State of Massachusetts upon the subject of the North-Eastern Territory of the United States, the title to which is still claimed by Great Britain.*

**"COMMONWEALTH OF MASSACHUSETTS.**

"Sir,

"Council Chamber, Boston, March 18, 1836.

"IN compliance with the request of the Legislature of the Commonwealth, I have the honour to transmit to you a copy of a Preamble and Resolutions lately adopted by the Senate and House of Representatives, on the subject of the unadjusted controversy between this country and Great Britain, relative to the north-eastern boundary of the United States. I am well aware that the great importance of this question, in connection with the rights and interests of the people of Massachusetts, will give it the strongest claim to the attention of their Representatives in either House of Congress. In performing the duty devolved upon me by the request of the Legislature, I beg leave to subscribe myself,

"With high respect, your obedient servant,

"EDWARD EVERETT."

**COMMONWEALTH OF MASSACHUSETTS, A.D. 1836.**

*Resolves concerning the North-Eastern Territory of the United States claimed by Great Britain.*

"Whereas a large tract of the north-eastern territory of the United States, belonging in common to the States of Maine and Massachusetts, and lying within the limits of the former State, has for many years past, in consequence of a claim from Great Britain, been *surrendered* to the *exclusive custody* of the British Government; and whereas, it appears from the report of the Committee appointed by the last Legislature of this Commonwealth, to make personal examination into the state of our public lands, that great inconveniences and gross abuses have resulted from *so valuable a portion of our domain being left in the keeping of Agents over whom we have no controul*: Therefore,

*Resolved by the Senate and House of Representatives in General Court assembled, That in the opinion of this Legislature, it is due to the rights and interests of Maine and Massachusetts, that measures should be taken by the Executive of the United States to secure a speedy settlement of this long protracted controversy, so that these States may be reinstated in the enjoyment of that property which was so long in their undisputed possession, and which is so indisputably theirs.*

"*Resolved*, That in case there be a prospect of further unavoidable delay in the settlement of this controversy, it is essential to the ends of justice that measures should be taken *by the Executive of the United States* to obtain a *representation* of the interests and rights of Maine and Massachusetts in the agency and guardianship of the territory in question.

"*Resolved*, That his Excellency the Governor is hereby requested to transmit a copy of these Resolutions to the Executive of the United States, to our Senators and Representatives in Congress, and to the Governor of the State of Maine.

"In Senate, March 1, 1836: Passed, sent down for concurrence.

HORACE MANN, *President*.

"House of Representatives, March 12, 1836; Passed in concurrence.

JULIUS ROCKWELL, *Speaker*.

"Council Chamber, March 14, 1846: Approved.

EDWARD EVERETT.

"Attest:

JOHN P. BIGELOW,

*Secretary of the Commonwealth.*"

It will be seen that this great Commonwealth here anxiously entreats the Executive of the United States.

1st. To bring the Boundary Question to a speedy settlement; and

2d. If the settlement appeared remote, at least to annul the arrangement by which two sovereign States had been stripped of the "agency and guardianship" over their own concerns.

Each of these prayers has been disregarded. The latter seems never to have gained a passing notice. It is true that in the course of a rambling and diffuse correspondence, high language is occasionally found in the mouth of this or that Secretary or Minister; but the stern practical exercise of authority by the Lieutenant-Governor of New Brunswick has gone on. He has been willing to release persons seized, on their quitting the scene of assumed agency; but not one dollar has ever been received in atonement for their seizure, nor the slightest disclaimer of authority obtained from Great Britain. The present hot urgency to obtain the "unanimous" certificate of members of Congress, that, in their opinion, there is no trace of any such agreement as Massachusetts here refers to, looks very like an expedient to avert the odium due to long, gross, unpardonable, supineness and imbecility, even at the hazard of placing the quarrel of the country upon untenable points.

The conduct of Maine, too, discloses a perfect knowledge that her hands had been tied. Thus, on the question whether she could cause a survey to be made, the claim is put on this modest ground, in a letter from the Governor to the President of the United States, in April, 1838:—

"It is the unquestionable right of litigants in a court of justice to make explorations of land in dispute, and, if either party declines a joint survey, it may be made *ex parte*; and surely the United States have never *so far yielded* the actual possession to Great Britain, as to preclude the right, on our part, to ascertain for ourselves the absolute facts, and to mark out the limits of our claim, and our alleged rights."

The Governor communicated his purpose to Sir John Harvey, who replied:

"Of the courtesy of your Excellency's communication I beg you to believe that I am perfectly sensible; and when, in reply thereto, I inform your Excellency that I shall not deem it necessary to interfere with a mission whose operation shall be confined to the purposes stated in your Excellency's letter, namely, that of merely obtaining topographical information, it is incumbent upon me to add, that it will be my imperative duty not to suffer any infringement of the possession and jurisdiction which Great Britain holds in the territory in dispute, until the question of right is decided."

The Governor, in making this known to the President of the United States, says:

"The answer of Sir John Harvey, although couched in courteous language,



according with the well-known high and honourable character of that officer, will yet doubtless command your attention and deliberate consideration, as expressing, in frank and decided language, the character and extent of his instructions relative to maintaining the jurisdiction of the disputed territory."

Here, then, was an appeal that might well come in aid of the same object, when urged upon the Executive of the United States, in the second resolution of the State of Massachusetts in 1836. Yet not the slightest notice appears to have been taken of it; and the President now comes here, in a flurry, affecting to treat the pretension as a portentous novelty that had just dropped from the clouds; and we are asked suddenly to make it an affair of immediate bloodshed.

But it is said that Mr. Fox has not consented to spread out the reasons on which his Government rest the pretension. And do you expect a subtle and accomplished diplomatist, in a case where delay is itself a positive gain, to answer *impromptu*, and thus dispose of a collateral issue that may, by dexterous management, last for many years? He is under no obligation to point out what stares you in the face in your own records, if you will take the trouble to read them. He will be glad to shift the points of negotiation. The arrangement signed by him may enable the British Government to take high ground, if our special Minister shall discover at Downing-street, for the first time, that we have been rather hasty in denouncing Sir John Harvey, and driving that functionary from his stand, under rather mortifying circumstances, in the face of the disaffected population under his charge. Sir, do not believe that we advance our case by refusing to view the subject in all its bearings. Now is the time for examination. When once engaged in war, I will not consent to look back. I shall go for the country. Such was my feeling in the last war and will be in the next. But let us not take our ground rashly, and where the enemy might wish to place us. It is the last degree of folly to suppose that there is any advantage in our blindly agreeing to unite in a misstatement of the evidence which can be so instantly exposed. A candid and intelligent people will lose all faith in us when our blunders are pointed out by strangers, after we have involved them in a war on false or frivolous pretexts.

What then is our course? To run into a new game of diplomacy about "exclusive jurisdiction?" To shed American blood in an obscure and senseless contest on the Aroostook? Does honour require that we shall compel the President to seek out, during the vacation, any Sir John or Sir Andrew who may enter this disputed territory with notions of duty which we have assisted to put into his head, and before we have endeavoured to obtain, in the proper quarter, a modification of the arrangement, such as Massachusetts, in 1836, entreated the President to effect? I cannot think so. We shall be wrong on any such issue. We are right on the great one. Let the President bring it to a close. If he cannot, let him so report, and we shall then be ready for the final appeal on broad principles which all can understand.

Mr. B. said, that in the course taken on this occasion he had braved what was most formidable to any man in public life—the peril of misrepresentation. He was well aware how much easier and cheaper it would have been to run a race of professions about patriotism, &c., than to take a course which threw the explanation of his conduct on an appeal to reason. He felt strong enough in the confidence of his constituents, to take the line which conscience dictated. They were a grave and quiet people, not given to flourishes; but there was a stern determination—a deep-seated and vital principle of patriotism—on which they could rely with more confidence. It should not be through his agency that they got entangled in a rash and foolish war. He would not commit them on pretexts which their own good sense and intelligence would find out, after a while, to be hollow and deceptive. But when the crisis came, he knew that the sound to battle would not fall on cold or timid ears; he knew that stout arms and brave hearts would rally from every workshop and harvest field; that all would be ready to follow, to whatever distant fields, the proud banner of their country.

## No. 11.

*Mr. Fox to Viscount Palmerston.—(Received April 15, 1839.)*

(Extract.)

*Washington, March 17, 1839.*

I HAD yesterday the satisfaction to receive letters from the Lieutenant-Governor of New Brunswick, wherein his Excellency communicates to me his readiness to accept the provisional terms of accommodation, recommended in the Memorandum which was signed by the United States Secretary of State and myself on the 27th of February. Sir John Harvey had lost no time in conveying friendly overtures to the Governor of Maine, for the purpose of concerting with him the best means of carrying the provisional arrangement, recommended in the Memorandum, into effect.

Major-General Scott, the bearer of the President's communication to the Governor of Maine, arrived at Augusta, the seat of the Government of that State, on the 8th of this month. The final resolution of the authorities of Maine, with reference to the recommendation conveyed to them from the President, to accede to the terms of accommodation agreed upon at Washington, is not yet known; as the matter had been submitted by the Governor to the Legislature of the State, which was still in Session.

Both the Governor and the Legislature of Maine were understood to be entirely displeased and dissatisfied with the moderate intentions of the Federal Government, as evinced in the President's Message to Congress, and in the joint agreement signed by Mr. Forsyth and myself. I do not apprehend, however, that under all the circumstances now existing, the people of Maine will venture upon any further act likely to cause an immediate collision of arms. Even if the State authorities should hesitate at first to disband the Militia force, in compliance with the injunction of the President, I have no doubt but that in a very short time the Militia will disperse of their own accord, when it is found that the support of the Federal Government is refused.

I am, in the mean time, informed by Lieutenant-General Sir John Colborne, that he has ordered Her Majesty's 11th Regiment to march from Lower Canada into the Madawaska Settlement, which Settlement is a part of the disputed territory. This movement was decided upon, before Sir John Colborne had become acquainted with the provisional agreement entered into at Washington. It is in no respect, however, inconsistent with that agreement, which does not stipulate the exclusion of Her Majesty's troops from the disputed territory. Nevertheless, looking to the spirit and intention of the agreement, I shall not hesitate to tender my advice to Sir John Colborne, that if the armed force of Maine be promptly withdrawn from the Restook district, he should in that case abstain from holding military occupation of any other part of the disputed territory; excepting so far as shall be strictly necessary for keeping open and protecting the line of communication between the provinces of Canada and New Brunswick.

I shall have the honour to forward to your Lordship, by the sailing packet of the 25th instant, copies of my correspondence with Sir John Colborne, and with Sir John Harvey. I also hope, that before that time some definite account will have been received at Washington of the intentions of the State Government of Maine.

I am happy to say, that no disposition has yet appeared amongst the America population on the Canadian frontier, to renew their outrages and acts of violence, in consequence, as might have been apprehended, of the present disturbance between New Brunswick and Maine. Both the President and the Secretary of War have assured me, that no part of the United States regular troops shall be removed from the useful service upon which they are now employed on the frontier of Canada.

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No. 12.

*Mr. Fox to Viscount Palmerston.—(Received April 17, 1839.)*

(Extract.)

*Washington, March 23, 1839.*

I HAVE the honour herewith to inclose copy of an official letter, which I have received from the Lieutenant-Governor of New Brunswick, in reply to a despatch which I have addressed to his Excellency (forwarded in my despatch to your Lordship of the 7th instant), communicating to him the provisional agreement entered into by Mr. Forsyth and myself on the 27th of February. Annexed to these despatches is the copy also of a letter addressed by Sir John Harvey to the Governor of the State of Maine.

On the 12th of this month, the Governor of Maine transmitted a special message to the Legislature of the State, upon the subject of the provisional arrangement recommended from Washington. A Committee of the Legislature reported a resolution thereon on the 15th instant. I herewith inclose a printed copy of the Resolution. I entertain little doubt but that the Resolution of the Committee will be adopted by the State Legislature, and that the Government of Maine will thereupon proceed to withdraw the militia of the State from the disputed territory, in accordance with the arrangement recommended by the United States Secretary of State and myself.

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Inclosure 1 in No. 12.

*Major-General Sir John Harvey to Mr. Fox.*

Sir,

*Government House, Fredericton,  
New Brunswick, March 6, 1839.*

YOUR Excellency's letter of the 27th ultimo, with its inclosures, was this day delivered to me by Mr. Scott, a special messenger.

Yielding to circumstances which I admit, with your Excellency, to constitute a sufficient justification for a departure from the strict letter of the Instructions from Her Majesty's Government under which it is made my duty to act, in reference to the territory in dispute between Great Britain and the United States, on the south-west frontier of this province; and I will add, to the anxious desire which I have always felt that matters of obviously secondary and minor import connected with that great question, should not be allowed to involve this province in border collision with the State of Maine, which might lead to a national war, I do not shrink from the responsibility imposed upon me by those instructions, of deferring all offensive measures, as relates to the occupation by the Militia of the State of Maine, of a certain portion of the disputed territory, for a period which may be sufficient to enable me, or your Excellency to receive the decision of Her Majesty's Government upon the subject. My measures shall accordingly be confined to the protection of the communication between this province and Lower Canada through the valley of the St. John and of Her Majesty's subjects of the Madawaska Settlement.

I cannot conclude this despatch, without tendering to your Excellency my best thanks for the frank and manly offer which you have made of sharing with me the responsibility of a deviation on my part from the strict letter of my instructions. That offer is in strict accordance with the whole tenor of the correspondence which I have had the honour and the pleasure of holding with your Excellency upon this subject during the short period of my administration of the Government of this province; and I beg you to believe, and I know that your Excellency will not doubt, that I sincerely participate in the sentiments embodied in the paragraph immediately succeeding that conveying this tender.

I have, &c.,  
(Signed) JOHN HARVEY.

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Inclosure 2 in No. 12.

*Major-General Sir John Harvey to the Governor of Maine.*

*Government House, Fredericton,  
New Brunswick, March 7, 1839.*

MAJOR-GENERAL Sir John Harvey presents his compliments to Governor Fairfield, and, with reference to a communication which he has just received from Her Majesty's Minister at Washington, transmitting a Memorandum under the joint signatures of Mr. Forsyth, the Secretary of State, and Mr. Fox, containing terms of accommodation recommended by the Secretary of State and Her Majesty's Minister Plenipotentiary to Governor Fairfield, and himself, respectively, begs to say, that he will be happy to enter into such amicable communication with Governor Fairfield upon the subject, as may conduce to the attainment of the very desirable and important object thereby proposed to be effected.

Sir John Harvey has answered Mr. Fox's communication, by expressing his entire readiness to give effect to the proposed agreement, so far as may be dependant upon him.

(Signed) JOHN HARVEY.

Inclosure 3 in No. 12.

*Resolution of a Committee of the Legislature of the State of Maine; reported on the 15th of March, 1839.*

RESOLVED—That, whenever the Governor of this State shall be fully satisfied, either by the declaration of the Lieutenant-Governor of the Province of New Brunswick, or otherwise, that he has abandoned all idea of occupying the disputed territory with a military force, or of attempting an expulsion of the civil force sent there under our Land Agent, that then the Governor of this State be authorized to withdraw our military force, leaving the Land Agent, with a sufficient *posse*, armed or unarmed, as the case may require, to drive out or arrest the trespassers, and to preserve and protect the timber from their depredations.

No. 13.

*Mr. Fox to Viscount Palmerston.—(Received April 30, 1839.)*

My Lord,

*Washington, March 31, 1839.*

THE inclosed important documents, containing the terms of a friendly arrangement provisionally agreed upon between the Governments of New Brunswick and Maine, have been published in a New York newspaper of the 29th instant, into which they were copied from a Boston newspaper of the 28th.

These documents have not yet been officially received at Washington; but, judging from the information which I already possess, I entertain no doubt whatever of their authenticity.

The arrangement appears to me to be in every respect satisfactory.

An official report from the Lieutenant-Governor of New Brunswick may probably reach Her Majesty's Government by the same packet which conveys the present despatch.

I have, &c.,  
(Signed) H. S. FOX.



## No. 14.

*Viscount Palmerston to Mr. Fox.*

Sir,

*Foreign Office, May 1, 1839.*

HER Majesty's Consul at Portland has transmitted to me a printed copy of a Report of the Land Agent of the State of Maine, dated the 1st of January last, which has been laid before the Legislature of that State, accompanied by a correspondence between the Warden of the disputed territory in New Brunswick and the Surveyor-General of Maine, and by other documents.

I have to instruct you to call the serious attention of the President of the United States to this Report, and to entreat him to consider the consequences which must ensue, if the people of Maine should proceed to act upon the recommendations contained in this Report, and should attempt to settle upon, and to take military possession of, the disputed territory.

Such a course of proceeding would be a direct violation of the engagement made by Mr. Livingston, as recorded in page 17 of this very Report,—an engagement which was accepted by the British Government as mutually binding between the two Governments, and which has been strictly adhered to by Great Britain; for the authorities of New Brunswick have not permitted any new settlements to be made, have not allowed any new roads to be opened, and have endeavoured to prevent any impairment of the value of the territory by the cutting of timber. But if the citizens of Maine shall cease to respect this agreement, Her Majesty's Government will, of course, no longer be bound by it either; and it is unnecessary to point out to the attention of the President, that if the question of Boundary between the two countries is thus to be decided, not by a regular and formal transaction between the two Governments, but by a scramble between the adjoining populations and local authorities of the two parties, conflicts must inevitably ensue, which would place the two nations in a state of open hostility towards each other.

The two Governments have hitherto been successful in their anxious efforts to prevent this particular question from disturbing the friendly relations between the two Powers; and Her Majesty's Government, confiding in the pacific disposition of the President, are convinced, that he will effectually exert his authority on this occasion to prevent the evils which these contemplated proceedings of Maine threaten to entail upon both countries.

I am, &c.,  
(Signed) PALMERSTON.

P.S.—I transmit you the printed Report of the Land Agent of the State of Maine referred to in this despatch; but, as this is the only copy in the possession of Her Majesty's Government, I have to request you will procure one for your archives, and that you will return to this office the one now sent.

## No. 15.

*Mr. Fox to Viscount Palmerston.—(Received May 8, 1839.)*

(Extract.)

*Washington, April 20, 1839.*

THE steam-packet "Great Western," arrived at New York on the 15th instant, after a longer voyage than usual, having departed from England on the 23d of the last month.

The intelligence obtained by this conveyance, showing the moderate temper displayed in England upon receipt of the first alarming news of the boundary difficulties, although neither so comprehensive, nor of so late a date as had been expected, has nevertheless, as far as it goes, given sincere pleasure and satisfaction to the lovers of peace in the United States. Much uneasiness and alarm,

however, will continue to prevail, until news shall have been received of the effect produced upon the public mind in Great Britain by the violent Bill passed by Congress in the first week of March.

More than a month has now passed since the publication of that Bill, and of the inflammatory war speeches which attended its discussion. The people at large have, in a very remarkable degree, failed to respond to the war spirit of the leading speakers in Congress. The general feeling, as far as I can at present judge, is one of regret, at the proceedings of the last few days of the session of Congress.

Probably it is as yet too early to form a sure judgment upon the above important topic; but all the signs that have yet appeared, lead me to the same opinion, and inspire me with better hopes than I had for some time before entertained, of an eventual friendly settlement of the various questions now gathering into trouble between England and America.

I can also add, that my recent intercourse with the President since the beginning of the present Boundary alarm, has convinced me, beyond a doubt, of his sincere personal wish in favour of peace.

The provisional arrangement concluded in the last week of March, upon the north-eastern frontier, by Sir John Harvey, Major-General Scott of the United States army, and Governor Fairfield of Maine, which was noticed in my despatch to your Lordship, of the 31st ultimo, will since have been officially reported to Her Majesty's Government from the Province of New Brunswick. I inclose some further correspondence upon the subject, between General Scott and the United States Government, which has been published officially at Washington. The arrangement appears to me to be completely satisfactory; not only as a means of averting honourably the risk of immediate collision on the frontier, but further, as calculated to establish a certain practical line of demarcation within the disputed territory, which may serve as a basis for a conventional line of frontier, to be adopted hereafter permanently by the two Governments. I have every reason to be satisfied with the frank, honourable, and conciliatory conduct pursued upon this occasion by General Scott.

Inclosure 1 in No. 15.

*Major-General Scott to Major-General Sir John Harvey.*

*Head-Quarters, Eastern Division,  
United States Army, Augusta, Maine, March 21, 1839.*

THE Undersigned, a Major-General in the army of the United States, being specially charged with maintaining the peace and safety of their entire northern and eastern frontiers having cause to apprehend a collision of arms between the proximate forces of New Brunswick and the State of Maine, on the disputed territory, which is claimed by both, has the honour, in the sincere desire of the United States, to preserve the relations of peace and amity with Great Britain—relations which might be much endangered by such untoward collision—to invite from his Excellency Major-General Sir John Harvey, Lieutenant-Governor, &c. &c., a general declaration to this effect.

That it is not the intention of the Lieutenant-Governor of Her Britannic Majesty's province of New Brunswick, under the expected renewal of negotiations between the Cabinets of London and Washington, on the subject of the said disputed territory, without renewed instructions to that effect from his Government, to seek to take military possession of that territory, or to seek, by military force, to expel therefrom the armed civil *posse*, or the troops of Maine.

Should the Undersigned have the honour to be favoured with such declaration or assurance, to be by him communicated to his Excellency the Governor of the State of Maine, the Undersigned does not in the least doubt that he would be immediately and fully authorized by the Governor of Maine, to communicate with his Excellency the Governor of New Brunswick, a corresponding pacific declaration to this effect:—

That in the hope of a speedy and satisfactory settlement, by negotiation between the Governments of the United States and Great Britain, of the principal Boundary Question between the State of Maine and the province of New Brunswick, it is not the intention of the Governor of Maine, without renewed



instructions from the Legislature of the State, to attempt to disturb by arms the said province, in the possession of the Madawaska Settlements, or to attempt to interrupt the usual communications between that Province and Her Majesty's upper Provinces; and that he is willing in the mean time, to leave the question of possession and jurisdiction as they at present stand; that is, Great Britain holding in fact possession of a part of said territory, and the Government of Maine denying her right to such possession; and the State of Maine holding, in fact, possession of another portion of the same territory, to which her right is denied by Great Britain.

With this understanding, the Governor of Maine will, without unnecessary delay, withdraw the military force of the State from the said disputed territory; leaving only, under a land agent, a small civil *posse*, armed or unarmed, to protect the timber recently cut, and to prevent future depredations.

Reciprocal assurances of the foregoing friendly character having been, through the Undersigned, interchanged, all danger of collision between the immediate parties to the controversy will be at once removed, and time allowed the United States and Great Britain to settle amicably the great question of limits.

(Signed) WINFIELD SCOTT.

*Government House, Fredericton,  
New Brunswick, March 23, 1839.*

The Undersigned, Major-General Sir John Harvey, Lieutenant-Governor of Her Britannic Majesty's Province of New Brunswick, having received a proposition from Major-General Winfield Scott, of the United States Army, of which the foregoing is a copy, hereby, on his part, signifies his concurrence and acquiescence therein.

(Signed) JOHN HARVEY.

*Executive Department,  
Augusta, March 25, 1839.*

The Undersigned, Governor of Maine, in consideration of the foregoing, the exigency for calling out the troops of Maine having ceased, has no hesitation in signifying his entire acquiescence in the proposition of Major-General Scott.

(Signed) JOHN FAIRFIELD.

Inclosure 2 in No. 15.

*Major-General Scott to the Hon. J. R. Poinsett.*

Sir,

*Head-Quarters, Eastern Division,  
Augusta, Maine, March 26, 1839.*

I HAVE the happiness to inclose herewith, two copies of the arrangement entered into through my agency, between the Governor of Maine and the Lieutenant-Governor of the Province of New Brunswick.

The copy of my official note to Sir John Harvey, with his acceptance of the arrangement, is in the hands of the Governor of Maine, and another copy of the same official note, followed by the acceptance of the Lieutenant-Governor and the Governor, was yesterday transmitted by me to Sir John Harvey. At the same time, I sent him copies of two orders which were yesterday issued by the Governor of Maine—the first, disbanding the thousand detached militia which has been held in reserve at this place; and the second, recalling the military force of the State from the disputed territory, and directing the organization of the civil posse that is to be held by the State in that territory. The papers so transmitted, and which bore the signature of the Governor of Maine, or that of his Adjutant-General, were officially certified by me.

I trust that the arrangement between the Governor and Lieutenant-Governor,

together with my humble agency, in bringing it about, will be satisfactory to the President and the Department. The arrangement, I have no doubt, will be executed by the parties to it, in good faith and in cheerfulness.

In haste, &c.,

(Signed) WINFIELD SCOTT.

Inclosure 3 in No. 15.

*Major-General Sir John Harvey to Major-General Scott.*

My dear General Scott,

*Government House,  
Fredericton, March 23, 1839.*

UPON my return from closing the session of the Provincial Legislature this day, I was gratified by the receipt of your very satisfactory communications of the 21st instant. My reliance upon you, my dear General, has led me to give my willing assent to the propositions which you have made yourself the acceptable medium of conveying to me, and I trust that as far as the Province and State are concerned, an end will have been put, by it, to all border disputes, and a way opened to an amicable adjustment of the national question involved. I shall hope to receive the confirmation of this arrangement on the part of the State of Maine at as early a period as may be practicable; and as it is my intention to proceed to Woodstock early in the ensuing week, I request you to have the goodness to address it to me at that place.

I shall certainly use my best endeavours to protect the timber on the valley of the St. John, within the disputed territory, from depredators, and shall probably place, for this purpose, a small civil force at the disposal of the Warden.

I grieve to learn that there is so little chance of my seeing you upon the present occasion, but I wish you to give me some ground for hoping that I may have that high gratification at as early a period as may be compatible with your many important and arduous duties.

Believe me, &c.,  
(Signed) JOHN HARVEY.

P.S.—I readily consent to all my letters to you being considered as semi-official, and thank you for the suggestion.

(Signed) J. H.

No. 16.

*Mr. Fox to Viscount Palmerston.—(Received June 3, 1839.)*

My Lord,

*Washington, May 16, 1839.*

I HAVE the honour to acknowledge the receipt of your Lordship's despatch of the 22nd March last, conveying the full power which Her Majesty has been graciously pleased to grant to me, under the Great Seal, authorizing and empowering me to negotiate and conclude with the Minister or Ministers vested with similar power and authority on the part of the United States of America, any Treaty or Agreement for the arrangement of any matters now in discussion between Her Majesty and the said United States.

I have, &c.,  
(Signed) H. S. FOX.

No. 17.

*Mr. Fox to Viscount Palmerston.—(Received June 3, 1839.)*

My Lord,

*Washington, May 16, 1839.*

I HAVE the honour to acknowledge the receipt of your Lordship's despatch of the 6th of April, conveying to me the Draft of a Convention between Great Britain and the United States of America, for the appointment of a new Commis-



sion of Exploration and Survey, with a view to settle and determine the Boundary line between the Province of New Brunswick and the State of Maine.

On the 10th instant, I addressed the inclosed official letter to Mr. Forsyth, transmitting to him the draft of the Convention. I received from Mr. Forsyth yesterday the inclosed official letter in reply.

Your Lordship will perceive, that the President is not willing to accept the Convention in the terms desired by Great Britain; but that he proposes to offer for the consideration of Her Majesty's Government, a counter project of Convention, in which the wishes and views of the United States will be intelligibly explained.

The official letter addressed to me by Mr. Forsyth has, purposely, been drawn up in very general terms; because the President apparently does not desire to commit himself to any definite resolution, until he shall have had occasion to consult with the State Government of Maine.

Considering the time that must be consumed in conducting a correspondence between Washington and the State of Maine, I do not expect that the counter project, which is now announced, will be delivered to me until the month of July. It is probable, however, that before that time I may be able to convey to your Lordship some knowledge of the principal points in which it will be at variance with the draft transmitted by your Lordship.

If it shall be found possible eventually to reconcile the points of difference, the mere fact of this additional delay will be of no material importance. Any Convention that may be acceded to by the President, must, before ratification, receive the consent and approbation of the Senate. This of course cannot be done until after the meeting of Congress in December next; and, consequently, not until then could the Convention, even if now immediately agreed to by the President, be finally transmitted to England to receive the ratification of Her Majesty.

I have, &c.,  
(Signed) H. S. FOX.

Inclosure 1 in No. 17.

*Mr. Fox to Mr. Forsyth.*

Sir,

*Washington, May 10, 1839.*

I HAVE the honour herewith to convey to you the Draft of a Convention between Great Britain and the United States, which has been transmitted to me by Her Majesty's Secretary of State for Foreign Affairs, having been prepared for the purpose of carrying into effect, with certain modifications, the proposal made by the United States Government to that of Her Majesty, for the appointment of a new Commission of Exploration and Survey, with a view to settle and determine the Boundary line between the Province of New Brunswick and the State of Maine.

It is confidently hoped that this project of Convention will be accepted by the President, as being framed substantially upon the basis of the original American proposition, modified according to the wishes of Her Majesty's Government. I have the honour to inform you, that I am in that case provided with the necessary full powers for signing the said Convention on the part of Great Britain.

I have, &c.,  
(Signed) H. S. FOX.

Inclosure 2 in No. 17.

*Mr. Forsyth to Mr. Fox.*

Sir,

*Department of State,  
Washington, May 15, 1839.*

I HAVE the honour to acknowledge the receipt of your letter of the 10th instant, transmitting the project of a Convention between the United States and Great Britain, which Her Majesty's Government had prepared for the purpose

of carrying into effect, with various modifications, the proposition made by the American Government for the appointment of a Commission of Exploration and Survey, with a view to settle and determine the Boundary between the State of Maine and the British Province of New Brunswick.

These papers I have hastened to submit to the President, who has perused them with the respectful attention due to the importance of the question to which they relate, no less than to the high source from which they emanate; and I am now directed to convey to you the expression of his sincere regret that he is unable at once to accede to a Convention as proposed by Her Majesty's Government.

In preparing the Draft which accompanied your note, it has been assumed, that the Government of the United States are willing to recognize as binding upon them, all the proposals previously offered on their part in regard to the appointment of a Commission of Exploration and Survey. This assumption is entirely erroneous. By the original proposal of the President for the erection of a Commission, a positive and definitive determination of the north-eastern Boundary was intended to be effected immediately by the Commissioners, and the United States were prepared to make some concessions to accomplish that object;—an object which cannot be anticipated confidently from the Board now proposed to be constituted. The President is well satisfied, that in agreeing to make an experimental (not definitive) examination and survey, the British Government will not expect that of the United States to consent to any limitation or restriction which is not applicable to both Parties. It is not apprehended by the President that, in other respects, any variance of views with regard to some points of the projected Convention, are incapable of reconciliation; on the contrary, the belief is entertained, that a full and frank discussion of them cannot but lead to a mutually satisfactory result; more especially when both Governments, as in the present instance, are animated by the most friendly dispositions towards each other.

As directly tending to such a result, I will without unnecessary delay, prepare and communicate to you for consideration, a Counter-project, exhibiting in the most explicit form the wishes of this Government in relation to the objects of the proposed Convention; and in the mean time, I beg you to accept the assurance of my distinguished consideration.

(Signed)

JOHN FORSYTH.

No. 18.

*Viscount Palmerston to Mr. Fox.*

Sir,

*Foreign Office, July 9, 1839.*

AS it appears by despatches lately received from you, that the negotiation now pending between Her Majesty's Government and the Government of the United States for the appointment of a Joint Commission of Exploration and Survey, with a view to settle and determine the Boundary Line between the British Provinces of New Brunswick and Canada and the State of Maine, is not likely to be brought to a termination till the latter part of the present year; Her Majesty's Government have thought that advantage ought to be taken of the present summer, in order to obtain as accurate a knowledge as possible, of the nature and configuration of the territory in dispute; and Her Majesty's Government have accordingly determined to send out immediately competent persons to examine and survey that district, and to make a report thereupon for the information of Her Majesty's Government.

Lieutenant-Colonel Mudge, of the Royal Engineers, and Mr. Featherstonhaugh, have been appointed for this service, and will be accompanied by five or six persons to assist them in their operations.

I inclose for your information, a copy of the general instructions which I have given to these gentlemen for their guidance; and I have to direct you to make known to the Government of the United States, the nature of the service upon which they are about to be employed.

I am, &c.,

(Signed)

PALMERSTON.



Inclosure in No. 18.

*Viscount Palmerston to Colonel Mudge and Mr. Featherstonhaugh.*

Gentlemen,

*Foreign Office, July 9, 1839.*

A NEGOTIATION is now going on between Her Majesty's Government and the Government of the United States of America, for the appointment of a joint Commission of Exploration and Survey, with a view to settle and determine the Boundary line between the British Provinces in North America and the State of Maine.

Recent communications from the United States, however, have shown that it will be impossible that this joint Commission can commence its operations before next year. But Her Majesty's Government are of opinion, that advantage ought to be taken of the present Summer to obtain as accurate a knowledge as possible of the nature and configuration of the territory in dispute; and Her Majesty's Government have therefore determined to send out immediately competent persons to examine and survey that district, to make a report thereupon, and to prepare a map thereof.

I have to inform you that I have selected you for this employment, and I now proceed to give you some general instructions for your guidance. You will proceed in the first instance to Fredericton, and from thence you will take such course as may appear to you best calculated to enable you to make the most of the present season. Her Majesty's Government do not expect you to make any extensive and detailed topographical survey of the country in question, because there is not time in the present season for such a survey; but they wish you to ascertain, by the best means within your power, whether a continuity of Highlands can be satisfactorily traced along a line extending from the sources of the Chaudière to the western end of the Bay of Chaleurs. Her Majesty's Government also wish to have a report upon the character and elevation of the country in that part of the due north line from the source of the St. Croix, which lies between the point where the British Commissioners under the Vth Article of the Treaty of Ghent stopped, and the extreme point to which the American Commissioners proceeded. You will also report which of the three following lines presents the best defined continuity of Highland range.

First. The line claimed by the British Commissioners from the source of the Chaudière to Mars Hill.

Second. The line from the source of the Chaudière to the point at which a line drawn from that source to the western extremity of the Bay of Chaleurs, intercepts the due north line.

Thirdly. The line claimed by the Americans from the source of the Chaudière to the point at which they make the due north line end.

You will also report in what degree the country bounded by the due north line and the lines claimed by Great Britain and the United States respectively, can be designated as Highlands in the ordinary sense of the term, assuming that term to mean, as stated in the dictionaries, "an elevated or mountainous region," and not a single ridge of hills.

You will also collect whatever traditional or other information you may be able to obtain, as to the former boundary between the old French colonies and the British colonies, before the year 1783, and as to the present Boundary between New Brunswick and Lower Canada. When you shall have completed your survey, or when the season shall no longer permit you to continue your operations, you will return to England, in order to give such verbal information and explanations as Her Majesty's Government may wish to receive from you upon the objects of your mission, in addition to what may be contained in your official report.

I have to add, in conclusion, that you will be accompanied by a sufficient number of intelligent persons to assist you in this service.

I am, &c.,  
(Signed) PALMERSTON.

## No. 19.

*Mr. Fox to Viscount Palmerston.—(Received July 21, 1839.)*

My Lord,

Washington, July 4, 1839.

THE President of the United States left Washington for New York on the 20th of last month. He will remain, I believe, in the State of New York, or in some other of the northern States, during the summer and autumn; and will not return to the seat of Government until the month of November.

The Secretary of State, Mr. Forsyth, has also been absent from Washington for some weeks past. He is at present at Augusta in Maine, the seat of the Government of that State, holding conferences with the Governor and Executive Council, and other leading citizens of Maine, upon the subject of the present situation of the boundary negotiation, and of the proposed Convention for the establishment of a new Commission of Survey and Exploration. I understand, that when the conferences with the authorities of Maine are terminated, Mr. Forsyth will proceed to consult personally with the President, and that he will then return to Washington. I presume that at an early period after this consultation, Mr. Forsyth will be prepared to communicate to me the counter project of a Convention on the part of the United States, which was announced in his official note of the 15th of last May.

I have, &c.,  
(Signed) H. S. FOX.

## No. 20.

*Mr. Fox to Viscount Palmerston.—(Received August 15, 1839.)*

(Extract.)

Washington, July 30, 1839.

I HAVE had the honour to receive this day your Lordship's despatch of the 9th of the present month, informing me of the Commission entrusted to Lieutenant-Colonel Mudge and Mr. Featherstonhaugh, to make, during the present summer, a topographical survey of the territory in dispute between Great Britain and the United States on the north-eastern frontier of the Republic; and instructing me to make known to the Government of the United States, the nature of the service upon which Colonel Mudge and Mr. Featherstonhaugh are about to be employed.

I have, accordingly, addressed the inclosed letter to the Acting Secretary of State of the United States, transmitting to him an extract from your Lordship's despatch.

Inclosure I in No. 20.

*Mr. Fox to Aaron Vail, Esq.*

Sir,

Washington, July 30, 1839.

I HAVE the honour to acquaint you, for the information of the Government of the United States, that Her Majesty's Government has appointed Lieutenant-Colonel Mudge, of the Royal Engineers, and Mr. Featherstonhaugh, accompanied by several assistants, to proceed to the territory in dispute between Great Britain and the United States, on the north-east frontier of the Republic, for the purpose of making, during the present summer, and before the negotiation which is pending for the establishment of a new joint Commission of Exploration can, as that negotiation now stands, be terminated, a topographical survey of various parts of the said disputed territory, for the use and information of Her Majesty's Government. Colonel Mudge and Mr. Featherstonhaugh arrived at New York on the 28th instant, and will proceed forthwith to the performance of the duty assigned to them.



I have the honour to inclose to you the extract of a despatch from Her Majesty's Secretary of State for Foreign Affairs, directing me to make the present communication to the Government of the United States.

I have, &c.,  
(Signed) H. S. FOX.

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Inclosure 2 in No. 20.

*Viscount Palmerston to Mr. Fox.*

(Extract.)

*Foreign Office, July 9, 1839.*

AS it appears from despatches lately received from you, that the negotiation now pending between Her Majesty's Government and the Government of the United States, for the appointment of a joint Commission of Exploration and Survey, with a view to settle and determine the boundary line between the British Provinces of New Brunswick and Canada, and the State of Maine, is not likely to be brought to a termination before the latter part of the present year, Her Majesty's Government have thought that advantage ought to be taken of the present summer, in order to obtain as accurate a knowledge as possible of the nature and configuration of the territory in dispute; and Her Majesty's Government have accordingly determined to send out immediately competent persons to examine and survey that district, and to make a report thereupon, for the information of Her Majesty's Government. Lieutenant-Colonel Mudge, of the Royal Engineers, and Mr. Featherstonhaugh, have been appointed for this service, and will be accompanied by five or six persons to assist them in their operations. I have to instruct you to make known to the Government of the United States the nature of the service upon which these gentlemen are about to be employed.

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No. 21.

*Mr. Fox to Viscount Palmerston.—(Received August 29, 1839.)*

(Extract.)

*Washington, August 4, 1839.*

THE United States Secretary of State has addressed to me the two inclosed official letters from Albany in the State of New York, where he is now staying with the President.

The first of these letters conveys the American counter-project of Convention for the establishment of a new joint Commission to explore and survey the disputed north-eastern boundary, which had already been announced as being in contemplation.

The second letter refers to that other unsettled part of the northern boundary along the water communications between the Lakes Huron and Superior, and the Lake of the Woods, which separates what is now the American territory or district of "Wisconsin," from the western part of the Province of Upper Canada; and invites Her Majesty's Government to proceed to the negotiation of a Convention for referring the disputed points of said boundary to the arbitration of a friendly Sovereign or State, in conformity with the VIIth Article of the Treaty of Ghent.

I have only received these papers in time to forward them to your Lordship, without comment, by the sailing-packet from New York of the 7th instant.

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Inclosure 1 in No. 21.

*Mr. Forsyth to Mr. Fox.*

Sir,

*Albany, July 29, 1839.*

WITH reference to the note addressed by you to the Department of State on the 10th of May last, conveying the draft of a Convention between the United States and Great Britain, prepared by Her Majesty's Government, fo

the purpose of carrying into effect, with modifications, the proposition of this Government for the appointment of a Commission of Exploration and Survey, with a view to determine the boundary between the State of Maine and the Province of New Brunswick, and in fulfilment of the intimation contained in my letter to you, bearing date the 15th of the same month, I have now the honour to transmit to you the counter-project of a Convention, which I am directed by the President to offer for the consideration and acceptance of Her Majesty's Government. This counter-project will be found to vary considerably in some parts from the draft communicated by you, yet it is not deemed necessary to comment upon the alterations made in it, since it is believed that the text will be found sufficiently perspicuous. It is, however, proper to remark, in relation to the new contingent provisions proposed for adoption in the closing articles of the paper herewith sent, that in recent events on our northern border, the danger of actual military collision between the citizens and subjects of the two Governments has been so imminent, that the President is again admonished of the necessity of the most anxious and strenuous exertion to arrange the difficulties existing between them in regard to boundary. He is convinced, in view of what has lately happened, that a mere Commission of Survey and Exploration would be inadequate to the exigencies of the occasion, and fall behind the just expectations of the people of both countries. All will agree in the importance of having the measure next adopted bear upon its face stipulations which must result in a final settlement, under some form, and within a reasonable time. The additional Articles just referred to are of this character, and intended to carry out these objects. Accept the assurances of the distinguished consideration with which I have, &c.,

(Signed) JOHN FORSYTH.

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Inclosure 2 in No. 21.

*Mr. Forsyth to Mr. Fox.*

Sir,

*Albany, July 29, 1839.*

THE Seventh Article of the Treaty of Peace and Amity between the United States of America and His Britannic Majesty, signed at Ghent on the 24th of December, 1814, is as follows:—

“It is further agreed, that the said two last-mentioned Commissioners, after they shall have executed the duties assigned to them in the preceding Article, shall be, and they are hereby authorized, upon their oaths, impartially to fix and determine, according to the true intent of the said Treaty of Peace of 1783, that part of the boundary between the dominions of the two Powers, which extends from the water communication between Lake Huron and Lake Superior, to the most north-western point of the Lake of the Woods; to decide to which of the two parties the several islands lying in the lakes, water-communications, and rivers, forming the said boundary do respectively belong, in conformity with the true intent of the Treaty of Peace of 1783, and to cause such parts of said boundary as require it, to be surveyed and marked. The said Commissioners shall, by a report or declaration under their hands and seals, designate the boundary aforesaid, state their decision on the points thus referred to them, and particularize the latitude and longitude of the most north-western point of the Lake of the Woods, and of such other parts of said boundary as they may deem proper. And both parties agree to consider such designation and decision as final and conclusive. And in the event of the said two Commissioners differing, or both, or either of them, refusing, declining, or wilfully omitting to act, such reports, declarations, or statements, shall be made by them, or either of them, and such reference to a friendly Sovereign or State shall be made, in all respects as in the latter part of the IVth Article is contained, and in as full a manner as if the same was herein repeated.”

You are probably aware, that the Commissioners appointed by the two Governments to carry these stipulations into effect, having differed in regard to certain portions of the boundary embraced in the above-recited Article, and also as to the appropriation of a certain island lying in the water-communication between Lake Huron and Lake Superior,—presented to both Governments, in accordance with the provisions of the Treaty above referred to, separate reports,



bearing date in October and in December, 1827, stating the points on which they differed, and the grounds upon which their respective opinions were formed. The contingency has thus arisen, which renders it necessary to refer these points of difference to some friendly Sovereign or State for final decision, in pursuance of the stipulations of the above-recited Article. Impressed with a conviction of the expediency of proceeding to a settlement of this question of boundary, whilst its adjustment is still free from many of the painful embarrassments which have attended the efforts of the parties to fix other portions of the line between their conterminous dominions on this Continent, the President has directed me to invite your immediate attention to the subject, with a view to the regulation of this reference by a formal conventional arrangement, and to inform you, as I have now the honour to do, that if you are possessed of, or shall hereafter be furnished with, the necessary full powers to enter upon such negotiation, I will be prepared to meet you without unnecessary delay. If, however, Her Britannic Majesty's Government prefer that the conventional arrangement proposed should be concluded at London, rather than at Washington, no objection would be felt by the President, to transferring the negotiation thither; and proper instructions on the subject will be transmitted to Mr. Stevenson, upon receiving an intimation of the the existencę of such a wish.

I have, &c.,  
(Signed) JOHN FORSYTH.

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Inclosure 3 in No. 21.

*North-Eastern Boundary.—Counter-Project of Convention.*

PREAMBLE.

WHEREAS neither that point of the Boundary between the United States and the British Dominions in North America, which is on the Highlands lying due north of the source of the River St. Croix, and designated in the Treaty of Peace between the two Powers, signed at Paris on the 3d of September, 1783, as the "north-west angle of Nova Scotia," nor that portion of said boundary, described in said Treaty as commencing at the said "north-west angle of Nova Scotia, viz.: that angle which is formed by a line drawn due north from the source of the St. Croix River to the Highlands; along the said Highlands which divide those rivers that empty themselves into the River St. Lawrence from those which fall into the Atlantic Ocean, to the north-westernmost head of the Connecticut River; thence down along the middle of that river to the forty-fifth degree of north latitude; from thence by a line due west on the said latitude, until it strikes the River Iroquois or Cataraguay,"—nor that other portion of the said Boundary which extends from the source of the River St. Croix directly north to the above-mentioned north-west angle of Nova Scotia have yet been ascertained and determined; and whereas adverse claims, founded upon conflicting constructions of the said Treaty of 1783, have been set up by the respective parties, the United States claiming as the position of the said north-west angle of Nova Scotia, a point due north of the source of the River St. Croix, on the Highlands lying north of the River St. John, and which divide those rivers that empty themselves into the River St. Lawrence from those which fall into the Atlantic Ocean; and Great Britain claiming as the position of said north-west angle of Nova Scotia a point on a Highland called Mars Hill, lying south of the River St. John, and dividing those waters which empty themselves into said the River St. John from those which fall into the Atlantic Ocean; and whereas the President of the United States of America, and Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, have deemed it expedient to attempt a settlement of said Boundary, in conformity with the stipulations of the aforesaid Treaty of 1783, by the appointment of a new Commission of Exploration and Survey, upon principles agreed upon between their respective Governments, with provisions for the final adjustment of the controversy, if the said Commission should unfortunately prove ineffectual; and with that view, to conclude a Convention, they have named as their Plenipotentiaries for this purpose, that is to say, the President of the United States, &c. &c. &c., and Her Majesty the Queen of the United Kingdom of

Great Britain and Ireland, &c. &c. &c., who, after having communicated to each other their respective full powers, found to be in due form, have agreed upon and concluded the following Articles :—

#### ARTICLE I.

Within            months after the exchange of the ratifications of the present Convention, the two High Contracting Parties shall appoint a Commission, to be composed in the following manner :—Three Commissioners shall be named by the United States of America, and three by Her Britannic Majesty ; and these six Commissioners so appointed, shall have power to appoint a secretary, and such other assistants as they shall judge necessary, to enable them to execute efficiently the duties of their Commission.

#### ARTICLE II.—Unchanged.

#### ARTICLE III.

With a view to ascertain and determine the point designated in the Treaty of 1783 as the north-west angle of Nova Scotia, the Commissioners so appointed shall proceed, in the first instance, to explore and mark out that portion of the Boundary which, under the Treaty of 1783, is to be formed by a line drawn due north from the source of the St. Croix River to the Highlands which divide those rivers which empty themselves into the River St. Lawrence from those which fall into the Atlantic Ocean. In running said line, they shall commence at the point designated by the monument erected by the Commissioners of the High Contracting Parties, under the Treaty of 1794, as the true source of the St. Croix River.

#### ARTICLE IV.

If two out of the three Commissioners on each side shall concur in tracing on the ground a line, which, in their united opinion, corresponds with the description contained in the Treaty of 1783, of that portion of the Boundary between the United States and the British dominions in America, which is referred to in the IIIrd Article of this Convention, they shall draw up a report to that effect, in duplicate, to which each Commissioner shall affix his signature and seal, in the presence of all the others ; and one original of such Report shall be forwarded by the United States Commissioners to the Government of the United States, and the other original shall be forwarded by the British Commissioners to the Government of Her Britannic Majesty. The two High Contracting Parties formally agree to consider the report of the Commissioners, so authenticated, as final and conclusive upon this point, and as binding upon both parties.

#### ARTICLE V.

It being the object, as it is the earnest desire of the High Contracting Parties, to effect a just and amicable settlement of the line of boundary in question, by the direct action of the joint Commission hereby established, or, if that shall prove impracticable, to obtain authentic evidence of all material facts that are connected therewith, for the better guidance of the future action of the High Contracting Parties upon the subject, it is agreed between them as follows :—1st. That it shall be the further duty of the said Commissioners to explore, and when it is desired, to survey such parts of the disputed territory, other than the line due north from the monument aforesaid, and also of the contiguous territory, as they, or the Commissioners of either party, shall deem useful in ascertaining the true boundaries of that Treaty ; and to note carefully the face of the country, the position and bearing of important relative objects, and all such other facts



and circumstances, as they, or either of them, may deem important to a correct decision of the points in dispute.

2nd. To collect, as far as they may be able to obtain the same, and carefully authenticate all such maps and surveys of the disputed and of the contiguous territory, and all official documents having relation to the premises, as will, in the opinion of the Commissioners, or of any two on either side, serve to elucidate the true intent and meaning of the Parties to the Treaty of 1783, upon the points in question; and to this end, the High Contracting Parties agree to furnish each other with authentic copies of all maps and surveys of the disputed and contiguous territories, and also with like copies of all official documents connected with the negotiation of the said Treaty, which are to be found in the public archives of the respective Governments, and which two of the said Commissioners, on either side, shall believe to have a bearing upon the subject under discussion; and 3rd. That in case of a final disagreement amongst the Commissioners, in respect of the true location of that portion of the boundary between the United States and the British Possessions in America, it shall be their further duty to draw up a full report of their proceedings under this Treaty, and to include therein a specific statement of the facts and circumstances which it is by this Article made their special duty to note, and in respect to which, two out of three of the Commissioners on each side, have found themselves able to concur in opinion. The said report shall be drawn up in duplicate, and signed and sealed by the Commissioners agreeing to the same; in the presence of all the others; and one original of said report shall be forwarded by the British Commissioners to the Government of Her Britannic Majesty, and the other original shall be forwarded by the American Commissioners to the Government of the United States. The two High Contracting Parties formally agree to consider the report of the Commissioners, so authenticated, as conclusive in regard to the facts therein stated, in all future discussions upon the subject.

#### ARTICLE VI.

As soon as the Commissioners shall have transmitted to their respective Governments the report prescribed by the IVth Article, they shall at once proceed to mark out, and make a map of such line as they shall have agreed to consider as fulfilling the conditions of the Treaty of 1783, agreeably to such report as they shall have transmitted to their respective Governments; and the line so drawn shall be deemed and taken by the two High Contracting Parties to be a portion of the Boundary Line between the American and British territories, as intended by the Treaty of Peace of 1783. They shall certify the accuracy of such map by a declaration to be attached to it under their hands and seals, and shall particularize the longitude and latitude of such points in the said line as they may deem proper. One copy of such map shall be transmitted to each Government by its own Commissioners; and both the High Contracting Parties agree to consider such map and declaration as finally and conclusively fixing the said portion of the boundary between their respective territories.

#### ARTICLE VII.

As Article VIII of the British Project: leaving out the words "in as straight a direction as the features of the country shall admit;" and inserting, after the word "Commissioners," in the second line of the second paragraph, the words, "or two on each side."

#### ARTICLE VIII.

As Article IX of the British Project.

#### ARTICLE IX.

As Article X of the British Project.

## ARTICLE X.

The map called "Mitchell's" map, hitherto admitted to have regulated the joint and official proceedings of the framers of the Treaty of 1783, shall be considered as evidence mutually acknowledged by the Contracting Parties as bearing upon the question to be decided.

## ARTICLE XI.

And in case the joint Commission, authorized under the preceding Articles, should not be able to concur in opinion as to the true Boundaries described in the said Treaty of 1783, it is further agreed, that the designation of that part of the Boundary line between the dominions of the United States and Great Britain, which extends from the source of the River St. Croix, directly north, to the north-west angle of Nova Scotia, thence along the said Highlands which divide those rivers that empty themselves into the River St. Lawrence, from those which fall into the Atlantic Ocean, to the north-westernmost head of the Connecticut River; thence, down along the middle of that river to the forty-fifth degree of north latitude, thence by a line due west, in the said latitude, until it strikes the River Iroquois, or Cataraguay, as described in the Vth Article of the Treaty of Ghent, shall be referred to three Commissioners, (neither of whom shall be a citizen of the United States, or a subject of Great Britain,) to be severally selected by three friendly Sovereigns or States, viz.                      and                      and                      , who shall be invited by the President of the United States and Her Britannic Majesty, to assume this office. And the said Commissioners, so appointed, shall be sworn impartially to examine and decide upon the matter so referred to them, according to such evidence as shall be laid before them on the part of the United States and of Great Britain respectively. The said Commissioners shall meet at                      , and shall have power to adjourn to such other place or places as they shall think fit. The said Commissioners, or a majority of them, shall, by a declaration or report, under their hands and seals, decide upon the matters referred to them, and shall designate the line of Boundary in conformity with the true intent of the definitive Treaty of Peace of 1783, and both the Contracting Parties shall consider such designation as final and conclusive.

## ARTICLE XII.

It is also agreed, that the proceedings of the Joint Commission of Exploration and Survey, first above authorized, so far as they are concurred in by the Commissioners of both parties, as hereinbefore provided, shall be evidence before the Commission authorized by the last preceding Article.

## ARTICLE XIII.

And in case the last-mentioned Commissioners should find the topographical evidence laid before them, insufficient for the purpose of a sound and just decision, they shall have the power of ordering additional surveys to be made of any portions of the disputed boundary line or territory, as they may think fit; which surveys shall be made at the joint expence of the Contracting Parties, and be held as conclusive by them.

## ARTICLE XIV.

To provide for the compensation of the Commissioners who may be appointed under the provisions of the XIth Article, the expences of the Commission, and the compensation of an Agent on each side, to make explanations in behalf of the respective parties.

## ARTICLE XV.

As Article XI of the British Project.

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No. 22.

*Viscount Palmerston to Mr. Fox.*

Sir,

*Foreign Office, October 14, 1839.*

WITH reference to my despatch of the 17th ultimo, respecting encroachments on the disputed territory by the people of Maine, I have to acquaint you, that a communication has been received by the Secretary of State for the Colonies, from the Lieutenant-Governor of New Brunswick, inclosing a copy of a despatch of the 12th of August last, which Sir John Harvey had addressed to you, reporting further and more extensive encroachments made by the people of Maine on the disputed territory.

You will, I doubt not, have already addressed a representation upon the subject of these encroachments to the Government of the United States; but if you should not have done so, I have to instruct you, upon the receipt of this despatch, to lose no time in stating in writing to Mr. Forsyth, that the erection of barracks, the construction of roads, and other works of a permanent character, in which the authorities of Maine are now engaged within the disputed territory, as reported by Sir John Harvey, are contrary to the agreement entered into by Sir John Harvey and General Scott; and if persisted in, must lead to serious consequences.

I am, &c.,  
(Signed) PALMERSTON.

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No. 23.

*Viscount Palmerston to Mr. Fox.*

(Extract.)

*Foreign Office, November 2, 1839.*

WITH reference to my despatch of the 14th ultimo, I herewith transmit to you, a Memorandum of Instructions from Sir John Harvey to the Warden of the disputed territory; and I have to instruct you to present a note to the Government of the United States, requesting them to take the necessary steps for withdrawing the *posse* of Maine to the positions which were to be occupied by that *posse*, in conformity with the provisional agreement entered into between the Governor of the State of Maine and the Lieutenant-Governor of New Brunswick.

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Inclosure in No. 23.

*Memorandum for the Warden of the Disputed Territory.**Fredericton, August 30, 1839.*

THE spirit of the agreement entered into between the Governor of the State of Maine and myself, through the mediation of Major-General Scott, was, that both parties should abstain from offensive operations against each other, with a view on one side to obtain, and on the other side to retain, the exclusive possession of the disputed territory; both parties agreeing to withdraw their armed forces, with certain limitations, and to leave matters exactly as they then stood, during the discussion of the question of ultimate right by the respective General Governments. My understanding of this agreement, that of the people of this Province, and I will venture unhesitatingly to say, that of General Scott, was, that there should be a complete pause in the movements on either side, and that things should remain as they then stood, viz.: the armed civil posse of Maine retaining possession of the Valley of the Aroostook, we denying their right to that portion of the territory, and we retaining possession of the Valley of the Upper St. John, Maine denying our right to hold it. That such was the true spirit of the agreement, there would be no difficulty on my part in establishing to the entire satisfaction and conviction of every impartial person.

In fulfilment of my part of the agreement, and for the purpose of setting

an example of prompt good faith, I instantly sent back to Canada Her Majesty's 11th Regiment, which was stationed in the Madawaska Settlement, having a strong detachment with guns on the south bank of the St. John, opposite to the mouth of the Little Madawaska River, and of which, by its strength and position, not the Madawaska Settlement alone, but the whole of the Valley of the Upper St. John was virtually in complete military occupation. Contrary to my expectations, however, and as I assented to the true spirit, intent and meaning of the agreement, a party of the Maine armed posse was, soon after the withdrawal of the British detachment, pushed across from the Valley of the Restook to the mouth of the Fish River, where it proceeded to establish itself, commenced making roads, building barracks, blockhouses, &c., and even taking possession of an island in the St. John's River, situated opposite to the mouth of the Fish River, and where it has ever since remained, to the great alarm and annoyance of Her Majesty's peaceable and loyal subjects of the Madawaska Settlement.

Against this proceeding I rested satisfied with making strong representations and protests to the General Government of the United States, through Her Majesty's Minister at Washington, by which the agreement was ratified; to that of Maine through General Scott, by whom it had been negotiated and guaranteed; and finally, to the Land Agent of that State, the conduct of whose subordinate officers was the immediate cause of complaint. By the protest to the General Government the national right is saved; from General Scott I have received the most satisfactory assurance of prompt interference, and from Mr. Mc Intyre, a disavowal of the conduct of his subordinate officer, accompanied by an assurance that the party should be withdrawn, and prohibited from any interference with the inhabitants. Upon this point, therefore, I have not deemed it necessary for the present to adopt any further proceedings; but as from some expressions made use of by Mr. Mc Intyre in his conference with Mr. Baillie, as well as from various rumours which have reached me from other quarters, it would appear to be the intention of the authorities of Maine to take their stand upon the terms of the agreement, and to deny the British definition of the Madawaska Settlements (for you will always bear in mind that the term used in the agreement, of which the copy bearing Governor Fairfield's signature and affirmation is in my possession, is settlement in the plural), I deem it proper to possess you of my view and construction of the extent of the settlements, in order that you may be prepared promptly to apprise me of, and to protest in a firm but moderate tone to Mr. Mc Intyre, against any interference with Her Majesty's possession and jurisdiction within these limits.

The Madawaska Settlements, as can be proved by a possession never surrendered, and by repeated acts, and indeed the continued undisputed exercise of legal jurisdiction, are regarded, known, and understood in this province to extend from the first houses above the Great Falls, on either bank of the St. John River, to the River St. Francis on the north, and the mouth of the Fish River on the south bank of the St. John; and all persons residing within these limits are subjects of Her Majesty, who have a right to claim in return for their allegiance, and shall receive the protection of the Government of this province; any overt act, therefore, implying jurisdiction exercised within these limits by others than the subjects of the Queen, you will call upon the civil authorities to resist; and if they should require assistance beyond what they can command, it shall be promptly afforded; but in the face of the express terms of a solemn agreement publicly entered into by the Governors of the State and Province respectively, and formally ratified by the two General Governments, I do not allow myself to believe that any such glaring infraction both of its spirit and of its letter, can be contemplated, or would be sanctioned by any of the State authorities. You will, however, seek an early opportunity of communicating fully and frankly upon the subject of this memorandum with Mr. Mc Intyre, from whom I do not doubt you will at once receive a prompt disavowal of any such design as that to which I have adverted.

(Signed)

J. HARVEY.

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## No. 24.

*Viscount Palmerston to Mr. Fox.*

(Extract.)

*Foreign Office, November 2, 1839.*

I HEREWITH transmit to you an extract of a despatch which I have received from Colonel Mudge and Mr. Featherstonhaugh, dated the 4th of September, relative to a communication made to those gentlemen, from which it would appear, that it is the intention of the Legislature of the State of Maine, on its being convened in January next, to pass a resolution directing the occupation of the whole of the disputed territory.

I have consequently to direct you, in addition to the instructions with which you are already furnished by my despatches of the 17th of September and 14th ultimo, to make such further representation to the Government of the United States as you may judge best calculated to prevent any such intentions of the Legislature of Maine from being carried into effect.

You will of course point out to the Government of the United States that the contemplated proceedings of Maine might lead to very serious embarrassments between the two countries.

Inclosure in No. 24.

*Colonel Mudge and Mr. Featherstonhaugh to Viscount Palmerston.*

(Extract.)

*Great Falls of the St. John's,  
New Brunswick, September 4, 1839.*

WE have heard, that it is intended upon the convening of the Legislature of Maine, to pass a resolution directing the whole of the disputed territory to be taken possession of by the State of Maine.

## No. 25.

*Mr. Fox to Viscount Palmerston.—(Received October 16, 1839.)*

(Extract.)

*Washington, September 25, 1839.*

IN my despatch of the 30th of July, I had the honour to inclose the copy of an official letter which I had addressed to the Acting Secretary of State of the United States, acquainting him, for the information of the Federal Government, with the nature and objects of the Commission of Topographical Survey within the disputed territory, entrusted by Her Majesty's Government to Lieutenant-Colonel Mudge and Mr. Featherstonhaugh.

I herewith inclose a copy of the official reply to the above communication, which, after reference to the President, was addressed to me by the Acting Secretary of State, on the 19th of August.

Inclosure in No. 25.

*Mr. Vail to Mr. Fox.*

Sir,

*Department of State,  
Washington, August 19, 1839.*

I HAVE the honour to acknowledge the receipt of your note of the 30th ultimo, with an inclosure, stating that Her Britannic Majesty's Government had appointed Colonel Mudge, of the Royal Engineers, and Mr. Featherstonhaugh, to proceed, accompanied by several assistants, to the territory in dispute between Great Britain and the United States on the north-eastern frontier, for the purpose of making, during the present summer, and before the negotiation now pending for the establishment of a new joint Commission of Exploration, can, as that

negotiation now stands, be terminated, a topographical survey of various parts of the said disputed territory, for the use and information of Her Majesty's Government; and adding, that Colonel Mudge and Mr. Featherstonhaugh had arrived at New York, and would forthwith proceed to the performance of the duty assigned to them.

I have lost no time in laying your communication before the President, and have the honour to inform you that its purport has, by his direction, been communicated to the Governor of the State of Maine.

I am, &c.,  
(Signed) A. VAIL,  
*Acting Secretary of State.*

No. 26.

*Colonel Mudge and Mr. Featherstonhaugh to Viscount Palmerston.—(Received November 18, 1839.)*

(Extract.)

Quebec, October 22, 1839.

WE addressed a despatch to your Lordship, dated September the 4th, from the Great Falls of the River St. John, and now have the honour to announce our arrival at this city yesterday evening, having traversed and examined much in detail the whole breadth of the disputed territory, intervening between the Great Falls of the River St. John and its sources near to those of the River Chaudière.

Since our arrival, we have had interviews with his Excellency the Governor-General, and with Major-General Sir John Colborne; and learning that the "Pique" frigate proceeds on her voyage to-morrow with Sir John on his return to England, we avail ourselves of the opportunity to acquaint your Lordship with the principal facts resulting from the investigations we have hitherto made. Our final report will require great leisure and preparation. In it we propose to embody a map, which shall show, with some detail, the physical geography of the disputed territory, where it is connected with the question at issue with the Government of the United States. At present, we are compelled to limit ourselves to a brief statement, which we hope may prove satisfactory and useful.

We have found and examined a real line of Highlands trending north-east and south-west, between the Great Falls and the sources of the Chaudière, perfectly in accordance with the line laid down on the map accompanying the memoir drawn up for the Foreign Office by Mr. Featherstonhaugh in April last.

In our investigation, we ascertained the fact beyond all controversy, that all the waters which empty themselves into the Atlantic Ocean south of this line, are heads of the Penobscot River, occupying the entire breadth of the disputed territory, and taking their rise on the southern portion of its axis.

In like manner, the Kennebec and Androscoggin, which flow into the Atlantic Ocean, take their rise on the south-east side of the southern continuation of our line of Highlands, which extends from the sources of the Chaudière to the heads of the Connecticut River.

On the north-west side of this continuation, the River Chaudière takes its rise in about north-lat.  $45^{\circ} 30'$ . We therefore report to your Lordship the existence of an uninterrupted line of Highlands, and a true axis of elevation, holding its course irregularly at some points, from south-west to north-east, from the heads of the Connecticut River to the Great Falls of the River St. John, and which divides the waters flowing into the Atlantic Ocean from the waters flowing into the St. Lawrence.

We also have the honour of stating to your Lordship our conviction, that this axis or line we have traced, is altogether sufficient to expound the language of the II<sup>nd</sup> Article of the Treaty of 1783.

We have also partially examined the line claimed by the United States as the Highlands intended by the Treaty, and are about to recommence, without delay, its further examination. If the season permits, which we hope it will do, we intend examining the country at the source of the Metis, which will be found laid down in the map already spoken of, as accompanying Mr. Featherstonhaugh's memoir, about north latitude  $48^{\circ}$ , and west longitude  $68^{\circ}$ .

The results obtained there, together with those yet to be received from the



party detached by us to examine the country north-easterly from the Great Falls of the St. John to the western termination of the Bay of Chaleurs, will form a part of our next despatch.

We have no doubt, from information already in our possession, that the investigations just spoken of, and which are in a course of being made, will be found equally satisfactory with those already completed.

No. 27.

*Mr. Fox to Viscount Palmerston.*—(Received December 11, 1839.)

(Extract)

*Washington, November 13, 1839.*

I HAD the honour to receive your Lordship's despatch of the 17th of September, conveying to me the opinion of Her Majesty's Government with respect to the injurious consequences likely to ensue from the continued acts of encroachment committed by the people of the State of Maine within that part of the disputed territory which lies on the southern or right bank of the River St. John.

I have further had the honour to receive by the Steam-packet, "Great Western," your Lordship's despatch of the 14th of October, relating to the same important subject, and directing me to address to the Government of the United States, a written remonstrance against the aggressions of the people of Maine.

I had already, a short time previously to the receipt of the last-mentioned despatch, presented to the United States' Secretary of State, the inclosed official note, the language of which will I hope be considered in accordance with the spirit of your Lordship's instructions. Intelligence which I received from New Brunswick, of a more recent period than that which had reached Her Majesty's Government at the date of your Lordship's despatches, enabled me to denounce to the United States Government, in a detailed and particular manner, the serious acts of encroachment and aggression, which, in violation of the most solemn agreements, are now being committed by the citizens of Maine.

I have as yet only received in reply, the inclosed letter from the Acting Secretary of State, Mr. Vail, in which he acknowledges the receipt of my note, and informs me, by direction of the President, that the matter to which it relates will engage the immediate attention of the Government of the United States. The Secretary of State, Mr. Forsyth, has again quitted Washington for the State of Georgia, from whence he will probably not return until the period of the meeting of Congress.

Inclosure 1 in No. 27.

*Mr. Fox to Mr. Forsyth.*

*Washington, November 2, 1839.*

INFORMATION which has been reported to Her Majesty's Government in England, and more recent intelligence which has been conveyed to the Undersigned by the British authorities in the Province of New Brunswick, make it the duty of the Undersigned, Her Britannic Majesty's Envoy Extraordinary and Minister Plenipotentiary, to call the immediate and serious attention of the Government of the United States, to the extensive and unscrupulous, although it is hoped and believed, the unauthorized acts of encroachment, which continue to be carried on by the people of the State of Maine within the line of the disputed territory.

It is unnecessary here to recapitulate the terms of the several agreements which were entered into in the months of February and March last, first between the Secretary of State of the United States and the Undersigned at Washington, and afterwards between the Lieutenant-Governor of New Brunswick, the Governor of Maine, and Major-General Scott of the United States Army, for the purpose of averting the danger of local collision upon the frontier,

pending the final settlement of the Boundary Question between the Governments of Great Britain and the United States. The terms of those agreements, and their true intent and meaning, are sufficiently well known.

Her Majesty's authorities have on their part not only scrupulously adhered to the letter and spirit of the engagements referred to, but they have been desirous upon every occasion, of interpreting, in the most frank and liberal manner, any point upon which a doubt or cavil could arise.

The Undersigned, however, regrets to say, that the same correct and scrupulous observance has not marked the conduct of the people of Maine, or that of the subordinate officers employed by the Government of the State.

The armed posse from the State of Maine, which it was agreed upon should be allowed to remain in the disputed territory, within certain limits, for the purpose of guarding the timber upon the disputed lands from waste and spoliation, has already advanced, it appears, far beyond those limits; extending its operations, and its armed occupation of the country, along the whole way from the Valley of the Restook to the mouth of the Fish River, into the Valley of the Upper St. Johns, and thus into a portion of the Madawaska Settlements. All this is clearly at variance with the terms and spirit of the engagement signed by the Governor of Maine, under the sanction and guarantee of General Scott.

The establishments also which have been formed by the persons composing the armed parties on the banks both of the Restook and of the Fish River, have assumed an aspect and character more decidedly military, and more resembling a permanent national possession of the country, than can be either required or justified in the civil posse of a land agent, holding, for the sole purpose of preventing trespasses, the temporary occupation of a district which is claimed by two parties, and the title to which is not yet settled between them. These establishments, or stations, are fortified with entrenchments and with cannon, and the number of armed men composing their garrisons, is far greater than the occasion can warrant. A permanent State Road is also being constructed, from the frontier of Maine into the Valley of the Restook, and from thence on the south side of the St. John's, to the Fish River, the object of which road is to connect those portions of the disputed territory with the towns of Augusta and Bangor, and other acknowledged parts of the State of Maine.

It moreover appears, that land surveyors, acting under the authority of the State of Maine, are employed in marking out lots and townships, within the aforesaid portion of the disputed territory; and that sales of lands are being made, with deeds regularly drawn under the authority of the State; as if those lands, lying within a region which Her Majesty's Government confidently claim to be a rightful possession of the British Crown, formed on the contrary a recognized part of the public domain of the State of Maine.

It is true, that the present course of encroachment, and the wrongful occupation of the land by the citizens of Maine, whether acting as unauthorized individuals, or with the sanction of the authorities of the State, cannot in any way place in jeopardy the eventual rights of Great Britain. For, whatever shall be the line of boundary between Her Majesty's possessions and the Republic of the United States definitively recognized and decided upon by the two Governments, either through the attainment of the true line of the Treaty of 1783, or through the adoption of a Conventional line, Her Majesty's Government will have to rely upon the Federal Government of the United States, in conjunction with the Government of Her Majesty, to assert and carry out the decision, whatever may be the views and pretensions of the inhabitants of the State of Maine, notwithstanding.

But it is evident, that the establishment, in the mean time, of new interests, and the growing up, as it were, of new proprietary claims upon the lands which are yet in dispute, may end by embarrassing the action of both Governments, of the Government to whom the district shall be finally allotted, and of the Government which will be called upon definitively to relinquish it.

The same argument has been held, and the same principle has been contended for, by the Government of the United States no less than by the Government of Great Britain. It will be in the immediate recollection of the Government of the United States, that when, in the year 1837, an alleged act, or design rather, of encroachment, of a far less direct or objectionable character than the operations referred to in the present note—namely, the survey of a projected line of railroad from Quebec to St. Andrews, passing through a part of the disputed



territory, was complained of and remonstrated against by the President, Her Majesty's Government immediately consented to order that survey to be relinquished. The Undersigned cannot doubt but that the Government of the United States will now, on their part, be guided by a similar and reciprocal disposition.

The Undersigned, therefore, while protesting, in the first place, formally in the name of his Government, against the acts of encroachment of the people of Maine above enumerated and complained of, urgently also, and in the spirit of peace and good will, appeals to the Government of the United States to cause those acts of encroachment to be desisted from, in order that whenever a practical adjustment of the line of boundary shall be obtained, no minor or incidental occasions of dispute may remain, to obstruct that final and friendly settlement of the controversy, which the Undersigned feels persuaded it is the equally earnest desire of both Governments to accomplish.

The Undersigned avails himself, &c.,

(Signed)

H. S. FOX.

Inclosure 2 in No. 27.

*Mr. Vail to Mr. Fox.*

*Department of State,  
Washington, November 5, 1839.*

THE Undersigned, Acting Secretary of State of the United States, has the honour to acknowledge the reception of a note, dated the 2nd instant, from Mr. Fox, Envoy Extraordinary and Minister Plenipotentiary of Great Britain, and to state, that having laid it before the President, he has been instructed to apprise Mr. Fox, that it would receive the immediate consideration of the United States Government.

The Undersigned avails himself, &c.,

(Signed)

A. VAIL.

No. 28.

*Mr. Fox to Viscount Palmerston.—(Received February 8, 1840.)*

(Extract.)

*Washington, January 11, 1840.*

IN my despatch of the 24th of December, I had the honour to inclose a copy of the annual Message of the President of the United States, which was on that day transmitted to the two Houses of Congress. I have the honour herewith to forward duplicate copies of the same.

That part of the President's Message which relates to the question of the north-eastern boundary, will, I think, be considered as satisfactory by Her Majesty's Government, both as regards the matter thereof, and also as regards the tone and manner of expression.

It might have been hoped that such authoritative expression of the temperate views of the President would be sufficient to silence and controul the violent pretensions of the State Government of Maine; but such, I am sorry to say, has not proved to be the case. I have this day received a copy of the annual Message of the Governor of Maine, transmitted to the Legislature of the State at the opening of the Session on the 3d of the present month. I lose no time in forwarding this document to your Lordship.

It will be seen that the language of the Governor of Maine upon the present occasion, in asserting the wrongful claims of the State, is in the highest degree hostile towards Great Britain; and that the Message contains, with reference to certain contingencies which the Governor presumes will arise out of the conduct of Her Majesty's Government, indirect and direct threats of violence, which must render it extremely doubtful whether the next six months will pass over without the necessity of armed interference on the part of Her Majesty's authorities.

The Governor of Maine, it will be further observed, in referring in his

message to the public works, and to the State roads, which, in defiance of the rights of Great Britain, in violation of every agreement between the two Governments, and in the face of formal and repeated protests on the part of the British authorities, are being constructed by the agents of Maine within the disputed territory, reports to the Legislature the progress of those works, in a tone of satisfaction and approbation, as if the same were being carried on lawfully and without objection within the acknowledged limits of the State. At the same time, the defensive movement of a small party of British troops from Canada, to reinforce the station at Lake Temiscouata, is denounced as an invasion of the American territory; although that movement is strictly within the meaning of the agreements entered into at the beginning of last year; and although further, the entire military occupation by Great Britain of the Madawaska Settlements, and of all that portion of the territory which, according to the agreements of last year, was to remain in the undisturbed possession of the British authorities, would be amply and obviously justified, as a precautionary measure, even if on no other account, by the very language now used, and the distinct threats of new acts of aggression now put forth in the Message of the Governor of Maine to the Legislature.

I had the honour, in my despatch of the 13th of November, to forward the copy of an official note which on the 2d of that month I had addressed to the United States Government, protesting against the continued aggressions of the State of Maine within the disputed territory. The inclosed official reply, dated the 24th of December, has been addressed to me by the United States Secretary of State.

Your Lordship will perceive that Mr. Forsyth's note, although temperately and courteously worded, is unsatisfactory as regards the matters of complaint and protest against the conduct of Maine. It would appear, in fact, that a reference of those matters of complaint by the General Government to the authorities of Maine, had produced no other reply from the authorities of Maine than a reiteration of their intention to persist in the conduct complained of, whether sanctioned and approved by the General Government or not.

I had intended, for the present, to do no more than forward Mr. Forsyth's note to your Lordship, and to wait your Lordship's instructions with respect to the further reply which it might be expedient to address to the United States' Government. With regard, at the same time, to the latter part of the note, and to the observations therein made upon the reported movement of British troops, I have verbally stated to Mr. Forsyth, both for the information of the President's Government, and for the information, if he should think proper, of the Government of Maine, that the movement of troops referred to has been a strictly defensive and precautionary measure, rendered necessary in justice to Her Majesty's subjects, by the prevailing and confident reports which have reached both the British Colonial authorities and myself, that some new and extensive act of aggression upon the disputed territory would be committed by authority of the Legislature of Maine during the present session. I have assured Mr. Forsyth that the British authorities have, on their part, no thought or intention of infringing upon the strict meaning of the agreements entered into at the beginning of the last year; and that the reinforcement of troops, whatever its amount may be, will probably be again withdrawn in the spring, if the ensuing session of the Maine Legislature shall pass over without the new hostile resolutions or acts of aggression which we have seen cause to apprehend.

But now, since the publication of the inclosed Message of the Governor of Maine, with the announcement therein contained, that a formal complaint against the movement of the British troops has been made by Maine to the General Government, I apprehend it will be better that I should immediately address to Mr. Forsyth a written note upon the subject. I shall have the honour duly to report my proceedings to your Lordship by the ensuing packet.

I have the honour herewith to forward an extract of a letter, with its accompanying inclosures, which has been recently addressed to me by Major-General Sir John Harvey.

I have only this day received the inclosed Message of Governor Fairfield; and am, therefore, obliged to close the present despatch (in order that it may be forwarded by the packet from New York of the 13th instant) without having had an opportunity of communicating with Mr. Forsyth upon the matter in question.



I feel no doubt that the President will regret and disapprove the language used in the Governor of Maine's Message.

I shall probably have the honour again to address your Lordship by the sailing packet from New York, of the 19th instant, and also by the steam-packet "British Queen," which is announced to depart from New York on the 1st of February.

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Inclosure 1 in No. 28.

*Extract from the Message of the President of the United States to both Houses of Congress.—December 2, 1839.*

WITH foreign countries our relations exhibit the same favourable aspect which was presented in my last annual Message, and afford continued proof of the wisdom of the pacific, just, and forbearing policy adopted by the first Administration of the Federal Government, and pursued by its successors. The extraordinary powers vested in me by an Act of Congress, for the defence of the country in an emergency, considered so far probable as to require that the Executive should possess ample means to meet it, have not been exerted. They have, therefore, been attended with no other result than to increase, by the confidence thus reposed in me, my obligations to maintain, with religious exactness, the cardinal principles that govern our intercourse with other nations. Happily, in our pending questions with Great Britain, out of which this unusual amount of authority arose, nothing has occurred to require its exertion; and as it is about to return to the Legislature, I trust that no future necessity may call for its exercise by them, or its delegation to another department of the Government.

For the settlement of our north-eastern Boundary, the proposition promised by Great Britain for a Commission of Exploration and Survey, has been received; and a counter-project, including also a provision for the certain and final adjustment of the limits in dispute, is now before the British Government for its consideration. A just regard to the delicate state of this question, and a proper respect for the natural impatience of the State of Maine, not less than a conviction, that the negotiation has already been protracted longer than is prudent on the part of either Government, have led me to believe that the present favorable moment should on no account be suffered to pass without putting the question for ever at rest. I feel confident that the Government of Her Britannic Majesty will take the same view of this subject, as I am persuaded that it is governed by desires equally strong and sincere, for the amicable termination of the controversy.

To the intrinsic difficulties of questions of boundary lines, especially those described in regions unoccupied, and but partially known, is to be added in our country, the embarrassment necessarily arising out of our Constitution, by which the General Government is made the organ of negotiating, and deciding upon the particular interests of the States on whose frontiers these lines are to be traced. To avoid another controversy in which a State Government might rightfully claim to have her wishes consulted, previously to the conclusion of conventional arrangements concerning her rights of jurisdiction or territory, I have thought it necessary to call the attention of the Government of Great Britain to another portion of our conterminous dominion, of which the division still remains to be adjusted. I refer to the line from the entrance of Lake Superior to the most north-western point of the Lake of the Woods, stipulations for the settlement of which are to be found in the VIIth Article of the Treaty of Ghent. The Commissioners appointed under that Article by the two Governments, having differed in their opinions, made separate reports, according to its stipulations, upon the points of disagreement, and these differences are now to be submitted to the arbitration of some friendly Sovereign or State. The disputed points should be settled, and the line designated, before the Territorial Government, of which it is one of the boundaries, takes its place in the Union as a State; and I rely upon the cordial co-operation of the British Government to effect that object.

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## Inclosure 2 in No. 28.

*Extract from the Message of Governor Fairfield to both branches of the Legislature of the State of Maine.—January, 1840.*

THE long pending question in relation to our north-eastern boundary, is still open and unadjusted, though we have reason, perhaps, for believing, that it has made some advances during the past year. We have had a renewed expression of opinion on the part of the General Government that the territory in dispute is a part of the State of Maine, an indication of a determination to discharge, in good faith, the duty of that Government to this State, of maintaining the integrity of its territory, and a national sanction of the military demonstrations made by this State in February and March last. It is also well understood now by all parties, that however patient and forbearing Maine will be, while honest and earnest attempts are being made to run the line and definitively settle the question, she will not submit longer to be deprived of her territory by such a system of vexatious and unjustifiable procrastination as has heretofore been practised; and that the question must be settled speedily, in some way or other, if hostilities would be avoided. This is gaining something. When parties are fully aware of the precise position they occupy, the next step taken by them will be taken understandingly, whatever else may be said of it. Again, the occurrences of last winter served to awaken the attention of the country to the momentous importance of the question, and to induce such an examination of it as to result in a strong and universal conviction, that the pretence of claim set up by Great Britain to the disputed territory, is palpably unfounded and unjust, and can be persevered in, only through an utter disregard of the plain and unambiguous terms of the Treaty of 1783.

Soon after the termination of your Session in March last, a proposition was made by the British Government to the Government at Washington, for establishing a Commission for the purpose of exploration and survey, but it was connected with such limitations and conditions, as, it is understood, caused an immediate rejection of it by the President. After which and believed to be as early as July last, a counter project was submitted to the British Government, to which, as we learn by the late Message of the President, no reply has yet been received.

Pending this negotiation, it seems the British Government has deemed it expedient to make an exploration of the disputed territory by Commissioners sent out for that purpose, the alleged object being, to obtain topographical information, &c., as a means of promoting an early and just determination of the question in dispute. These Commissioners have completed the exploration, and returned to England to report to their Government. What that report is to be, or what is to be the effect of it remains to be seen. The courtesy due from one Government to another requires us, perhaps, to believe, that the real and avowed design are the same, and that this survey has been undertaken really for the acquisition of information, and not for mere purposes of delay. At all events, a short time will determine. As the Commissioners may be expected to have reached England about the 1st of January, there will be ample time before the termination of your present Session, supposing it to be of the usual length, for the British Government to avail itself of its additional information, and to communicate with the Government of the United States, in reply to the counter proposition submitted many months ago. If such communication should not be made within the time anticipated, I think you may fairly regard the British Government as having returned to its old practice of procrastination, and will be justified in adopting more vigorous and determined measures than have ever heretofore been adopted, to secure to this State both her property and jurisdiction in her lawful territory; unless the necessity for such a course should be obviated by the action of the General Government. What those measures should be, may properly be left to future consideration. I need not say, that in all your efforts to secure to Maine her just rights, you may depend upon my hearty co-operation.

In giving you information of the doings of this Government, in relation to the disputed territory, since the adjournment of the Legislature in March last, permit me to refer to certain Resolves passed the twenty-third of that month.



In one of them it is resolved as follows, to wit:—"That, when he (the Governor) shall be satisfied either by the declarations of the Lieutenant-Governor of New Brunswick or otherwise, that the latter has abandoned all intention of occupying the territory with a military force, and of attempting the expulsion of our party; that then, the exigency which called forth the militia, having ceased, the Governor be, and he hereby is authorized to withdraw the same, leaving the Land Agent with a sufficient *posse*, armed or unarmed, as the case may require, to carry said Resolve into effect."

Soon after the adoption of this resolution I received the written assent of the Lieutenant-Governor of New Brunswick to the following proposition made to him by Major-General Scott, to wit:—"That it is not the intention of the Lieutenant-Governor of Her Britannic Majesty's Province of New Brunswick, under the expected renewal of negotiations between the Cabinets of London and Washington on the subject of the said disputed territory, without renewed instructions to that effect from his Government, to seek to take military possession of that territory, or to seek by military force to expel the armed civil *posse* or the troops of Maine."

It appearing to me that the precise contingency contemplated by the Legislature had occurred, I could not hesitate to recall the troops. Any other course, it seemed to me, would be not only incurring needless expense, but disregarding the express directions of the Legislature. Nor was the step taken with any reluctance, as one, in the slightest degree, derogatory to the honour of the State. We had never attempted or professed to take military possession of the territory. A recurrence to the Resolves of the 24th of January and the 20th of February will show, that the object was to arrest trespassers and protect our property from devastation; and of the last, particularly, to resist a threat of expulsion from the territory by the Lieutenant-Governor of the Province of New Brunswick. The withdrawing the troops, therefore, was, in no sense, an abandonment of any position taken by this State. The troops maintained their ground while the exigency which called them out remained—when that ceased they retired. For a more detailed account of military operations, I refer you to the accompanying Report of the Adjutant-General. I cannot, however, permit this opportunity to pass without saying, that the Militia called into service, both officers and privates, with but few exceptions, conducted in a manner, in the highest degree creditable to themselves and to the State.

In further compliance with the Resolve of the 23d of March, the Land Agent, with a sufficient armed *posse*, remained in the territory after the withdrawal of the troops. For a particular account of his proceedings I must refer you to his Report herewith transmitted. It seems that during most of the time he has had in the service about 200 men. That they have not been idle will appear, I think, by looking at what they have accomplished. In addition to the labour expended in furnishing tolerably substantial fortifications erected upon the Aroostook, with two large block houses and similar buildings at the mouth of Fish River, they have made over one hundred miles of road through the heart of the wilderness—all of it being suitable for travelling with carriages and for the transportation of heavy loads. Booms have also been extended across the Aroostook and Fish Rivers, of the most substantial character, and much valuable timber thereby saved. On the whole, though the expenses have been necessarily great, it is believed that the true interests of the State have been promoted by the course pursued by the Land Agent and those who have been associated with him.

Early in the fall, complaint was made to me that the Land Agent of Massachusetts was granting permits to persons residing in the Province of New Brunswick, and others, to cut timber upon lands contiguous to, and lying upon both sides of the Aroostook River. And it was represented, that if such practice was to be persevered in, it would be impossible to execute the laws and resolves of the State in relation to the prevention of trespasses upon the public lands. The evils before experienced from this cause, and those apprehended, were represented as numerous; and, among others, that these permits were used by many as a mere cover for depredations upon the lands of this State. Under these circumstances, I felt constrained to address the Land Agent of this State, advising that the utmost rightful power should be exerted on his part to counteract the designs of these persons; and that he notify them, that if they persevered in their attempts, the Legislature would probably adopt some regulations in regard to the use of our

public streams, which would render the lumbering operations of but little avail to those engaged in them. The Land Agent conformed to this advice, and I am happy to state my belief that no more permits were subsequently granted, and that most of the persons who had previously obtained permits abandoned the design of operating under them. A few, however, did not, and whether any measures should be adopted in relation to them, carrying out the suggestion before made, it is for you to judge.

The views which I have presented in this communication, upon the subject of the Boundary, were those entertained independently of what is now an ascertained fact, to wit, that our territory is actually invaded, and of course are to be modified by that circumstance. Official information of that fact was received by me a few days since, while on my way to this place, in a reply of the Lieutenant-Governor of the Province of New Brunswick to a letter of inquiry addressed to him by myself in relation to this subject. It is admitted that one or two companies of British troops have been stationed at Temiscouata Lake, but it is alleged by the Lieutenant-Governor to have been done, not by his own orders, but by the authorities of Lower Canada. This movement I cannot but regard, under whatever branch of British authority, or on whatever pretence it may have been made, not only as a violation of the spirit of the arrangement agreed upon in March last, but as clearly an invasion of our territory. Under these circumstances, I deemed it to be my duty immediately to communicate the facts to the President of the United States, with other, though less official information received, of the building of barracks by the British Government on both sides of the St. John's, near the mouth of Madawaska River, which I did, calling officially for that action on the part of the General Government which the case required and the Constitution and laws of the United States clearly enjoined. A copy of this communication to the President, and of the correspondence between the Lieutenant-Governor of New Brunswick and myself are herewith laid before you.

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Inclosure 3 in No. 28.

*Mr. Forsyth to Mr. Fox.*

*Department of State,  
Washington, December, 24, 1839.*

THE Undersigned, Secretary of State of the United States, having, in pursuance of directions from the President, requested the Governor of Maine to communicate to him such information as might be in his possession, in relation to a complaint preferred by Mr. Fox, Envoy Extraordinary and Minister Plenipotentiary of Great Britain, in a note dated the 2nd ultimo, of alleged encroachments on the part of the State of Maine, upon the territory in dispute, upon the north-eastern frontier of the United States, is enabled by a recent communication from the Governor of the State, to lay before Mr. Fox, for the information of his Government, the following statement and observations.

With reference to the first ground of complaint, the Undersigned is informed, that early last spring, the Land Agent of Maine dispatched a small force, consisting of about twenty-five men, to Fish River, for the purpose of dispersing a band of trespassers understood to have been operating at that place, in consequence of which, the trespassers' camps were broken up, some of them driven off, and a few with their teams, brought to the settlement on the Aroostook, but subsequently released; that the Land Agent, in further pursuance of what he deemed his duty, again sent a party of about the same number of men, to the mouth of Fish River, to extend a boom across it, in order to prevent the timber, which had been cut by the trespassers, from being driven out into the St. John's, and to hinder further depredations by cutting. The object of the expedition has been accomplished, and the party remained on the ground at the date of the Governor's communication.

So far the Undersigned is unable to perceive that anything has been done by the people of Maine, in any way contravening the spirit of the agreement entered into with Mr. Fox, or that of the arrangement proposed by General Scott, and subscribed by the authorities of Maine and New Brunswick. In the first place, the territory contiguous to the mouth of Fish River, on either side of the



St. John's, can in no proper sense be considered as included in the Madawaska Settlement. It is distant some twenty-five miles above it, and the two points are not connected by any continuous occupation or settlement of the country. But even if the point referred to formed part of the Madawaska Settlement, the agreement of the 27th of February, stipulated that, in the event of future necessity for dispersing notorious trespassers, or protecting public property from depredation, by armed force, the operation would be conducted jointly or separately, according to agreement between the Governments of Maine and New Brunswick. Under such an agreement, negotiated through the agency of General Scott, the Governor of Maine was to maintain within the disputed territory, under a Land Agent, a small civil *posse*, armed or unarmed, to protect the timber recently cut, and to prevent further depredations, without any limitation as to the sphere of its operation within the bounds of the disputed territory. To the attainment of those ends, the action of the parties detached by the Maine Land Agent, appears, so far as the Undersigned is informed, to have been strictly confined.

As to the military aspect or character alleged by Mr. Fox to have been assumed by the parties at the Restook and Fish Rivers, it appears that those dispatched to the last-mentioned points, composed, as stated, each of about twenty-five men, neither militia nor soldiers, but hired labourers, were, it is true, armed with muskets, and had extended a boom across the river, and erected a block-house for its protection and their own, against the numerous bands of lawless men, grown desperate by being deprived of their accustomed plunder, and over whom Her Majesty's authorities appear to have exercised but little controul. Such measures of precaution cannot but be regarded as dictated by prudential motives, if not by the necessity of the case; and the fitness and extent of the preparation appear to the Undersigned, questions which could not understandingly be discussed away from the scene of action, and which of necessity can only be properly decided by those persons whose safety was to be secured.

Upon the Aroostook, which has been the pivot of operations of the Land Agent's *posse*, a larger number of men has been employed. They also have extended a boom across the river, and erected near it a fortification of hewn timber, and a few other more temporary buildings. The twenty-five or thirty men stationed there, are likewise armed with muskets, and it is believed, have also two small pieces of artillery. The remainder, about 125, have for the most part been engaged in opening roads for summer as well as for winter communications, and in preparing facilities for supplying the *posse*. Any preparations short of these, would, it is stated, have been insufficient to protect the public property, and the authorities of Maine cannot repress a sentiment of surprise, that these should now be made a subject of complaint, when but a short time since, the establishment was, in the dead of night, assaulted by a party of some fifty men, suitably equipped, commanded by a captain of Militia, and bearing the Queen's arms, in the repulsion of which the occupants displayed a spirit of forbearance and moderation, sufficiently in harmony with the avowed and sole object of their occupation of the territory; and that surprise is in no way diminished by the fact, that the Agents of the British Governments have just completed extensive permanent barracks on the same territory, north of the St. John's River, and are in the habit of transporting troops and munitions of war over it at their convenience.

The construction of the road leading into the Valley of the Aroostook, would not, it is apprehended, have been deemed at this time a just cause of complaint, had Mr. Fox adverted to the fact that the work was commenced as long ago as 1826, under an appropriation by the Legislature of the State of Maine, and that from that time it has steadily advanced, so that another year will probably see it completed, from near the Mattawamkeag Point in the County of Penobscot, to the Aroostook River, and thence to the mouth of Fish River, on the St. John's. It is therefore no new project conflicting with any existing arrangement, nor with any understanding to which the State of Maine has become a party, but the exercise of a lawful right over a portion of the territory in dispute, of and over which it ever has had possession and jurisdiction. To say nothing of other advantages anticipated from the completion of the road, it will afford great facilities for preventing trespasses upon the public lands; and, indeed, it is considered that trespassing upon the streams emptying high up upon the St. John's, cannot be prevented without such a road. The Governor of

Maine considers that in carrying on the work referred to, the State has done no more that is inconsistent with the respective rights of parties than have the authorities of Her Majesty's Province, in constructing, and recently, as it is understood, in thoroughly repairing a permanent mail road over a large portion of the territory north of the St. John's.

The last allegation in Mr. Fox's note forming a cause of complaint against the State of Maine, relates to her management of the lands upon the Aroostook. In this particular the Undersigned is enabled to observe, that the proceedings complained of, differ in no way from those which Maine, since her separation from Massachusetts, and the last named State previously to it, have ever pursued in regard to public lands. For the last thirty years, the State has been occasionally surveying and lotting those lands, granting them for literary, charitable, and religious purposes, and selling them in small lots to actual settlers. Of this right, so long exercised, Maine alleges that she has done nothing to divest herself, and that the discussions and negotiations upon the main question of Boundary, could not have had the effect of weakening her title to rights she had so long been in the habit of enjoying.

It is with no little surprise that, in the face of the complaints which form the subject of Mr. Fox's note, the President has received intelligence of Her Majesty's Colonial authorities having recently stationed a regiment of regular troops, part at the north, and part at the south, end of Lake Temiscouata; and of Her Majesty's forces having commenced building barracks on both sides of the St. John's, at its confluence with the Madawaska.

Such proceedings on the part of the Agents of the British Government, would, if true, constitute such a flagrant contravention of the existing understanding between the parties, that the President cannot but hope that the report which has reached him of the occupation referred to, is founded upon incorrect information.

The Undersigned requests that Mr. Fox will communicate to him such information, if any, as he may have in his possession, in relation to the subject, and that he will by such representations as the circumstance, if founded in fact, will obviously suggest, impress Her Majesty's Colonial authorities with a sense of the inexpediency and imprudence of such proceedings, and of the unhappy consequences likely to attend their persistence therein.

The Undersigned avails himself, &c.,

(Signed)

JOHN FORSYTH.

Inclosure 4 in No. 28.

*Major-General Sir John Harvey to Mr. Fox.*

(Extract.)

*Government House, Fredericton,  
New Brunswick, December 19, 1839.*

I HAVE to invite your attention to the inclosed copies of a correspondence which has this day taken place between the Governor of Maine and myself, and to express my hope that the answer which I have returned to Mr. Fairfield's letter may meet with your Excellency's approbation.

Inclosure 5 in No. 28.

*The Governor of Maine to Major-General Sir John Harvey.*

Sir,

*Executive Department,  
Saco, December 12, 1839.*

HAVING seen in the public prints, extracts from some of the provincial papers, stating that two regiments of British troops had been stationed at Temiscouata Lake, in the disputed territory, I have been induced to inquire of your Excellency whether there be any foundation for these reports? A movement so clearly in violation of the arrangement entered into through the mediation of General Scott, I shall not permit myself to believe your Excellency would make without stronger evidence than a newspaper paragraph.



The extreme sensitiveness of the public mind upon this subject, I trust your Excellency will perceive affords additional reason for an early explanation.

I have, &c.,  
(Signed) JOHN FAIRFIELD,  
Governor of Maine.

Inclosure 6 in No. 28.

*Major-General Sir John Harvey to the Governor of Maine.*

Sir,

*Government House, Fredericton,  
New Brunswick, December 19, 1839.*

I HAVE the honour to acknowledge the receipt this day of your Excellency's letter of the 12th instant.

Whatever movements of troops may have taken place on the side of Lower Canada have been made by authority superior to mine; but I apprehend they have consisted, not of two regiments, but of one or two companies, as small a detachment as can well be made to so great a distance, consistently with the maintenance of a due degree of discipline, for the protection of certain buildings which have been constructed for the better accommodation of Her Majesty's troops on their march between the Upper and Lower Provinces, and of the provisions, stores, and other public property therein deposited.

A copy of your Excellency's letter shall be transmitted by me to the authorities in Canada, who, I can assure your Excellency, are as anxious as I am, that the spirit, as well as the letter of the agreement entered into between your Excellency and myself, under the mediation of General Scott, in March last, should be scrupulously observed on our part.

I have, &c.,  
(Signed) JOHN HARVEY.

No. 29.

*Viscount Palmerston to Mr. Fox.*

Sir,

*Foreign Office, February 19, 1840.*

I HAVE received and laid before the Queen, your despatch dated the 11th ultimo, relative to the question of the disputed territory, and to the recent Message of the Governor of Maine to the Legislature of that State.

With reference thereto, I herewith transmit, for your information, copies of a letter with its inclosure which I have received from the Colonial Department, and which clearly disproves the allegation contained in the message of the Governor of Maine, that the agreement entered into between the Lieutenant-Governor of New Brunswick and General Scott, had been violated on the part of Her Majesty's Government.

I have consequently to instruct you to protest formally against the encroachments now making by the armed posse, and by the people of Maine, upon the disputed territory, as openly avowed by Governor Fairfield in his Message. You will state to Mr. Forsyth, that Her Majesty's Government claim and expect from the good faith of the Government of the United States, that the people of Maine shall replace themselves in the situation in which they stood before the agreement was signed, and that they should therefore retire from the Valley of the St. John, and confine themselves to the Valley of the Aroostook, and that they should occupy that valley in a temporary manner only, and for the purpose of preventing depredations, and that they should not construct fortifications nor make roads or settlements. Until this be done by the people of Maine, and as long as those people shall persist in their present system of encroachment, Her Majesty's Government will feel it their duty to make such military arrangements as may be necessary for the protection of Her Majesty's rights; and force will necessarily be repelled by force. And Her Majesty's Government deem it right to declare, that if the result of the unjustifiable and aggressive

proceedings of the people of Maine should be collision between Her Majesty's troops and the people of Maine, the responsibility of all the consequences, be they what they may, which may flow therefrom, will rest with the people and Government of the United States.

You will add, that Her Majesty's Government are only waiting for the detailed report which Colonel Mudge and Mr. Featherstonhaugh are now preparing, and which it is hoped will be completed in the course of a month, in order to send to the United States an answer to their last communication about the Boundary Question.

I am, &c.,  
(Signed) PALMERSTON

Inclosure 1 in No. 29.

*J. Stephen, Esq., to J. Backhouse, Esq.*

Sir,

*Downing Street, February 15, 1840.*

I AM directed by Lord John Russell to transmit to you herewith, a copy of a despatch from the Lieutenant-General commanding the forces in British North America, inclosing an extract of so much of the Message of the Governor of Maine to the Legislature of that State, as relates to the disputed territory, and explaining the real facts of the case to which allusion has been therein made.

This despatch clearly establishes the incorrectness of the statement made by the Governor of Maine, that measures have been taken by the British authorities in the erection of military buildings, and the movement of troops, which are in violation of the existing agreement between the two countries. In some points, the assertion thus made is the direct contrary to the fact; in others, it is such a construction of the fact as the circumstances did not warrant, and such as certainly could not justify the charge of breach of faith which Governor Fairfield has, upon such loose information, so directly and so confidently advanced against the British authorities. It is not on such slight grounds that Lieutenant-General Sir Richard Jackson has founded the charge which Her Majesty's Government have advanced against the State of Maine of having violated the agreement. If any doubt before existed that such is the case, the present despatch distinctly explains the nature and locality of the works which have been undertaken by the citizens of Maine, in violation of the express understanding between the two countries. Lord John Russell is desirous, therefore, of putting Viscount Palmerston in possession of the explanation which has been afforded by Sir R. Jackson; and he would recommend to his Lordship's consideration the necessity of a remonstrance founded upon it being addressed to the United States Government.

I have, &c.,  
(Signed) JAMES STEPHEN.

Inclosure 2 in No. 29.

*Lieutenant-General Sir R. Jackson to Lord John Russell.*

My Lord,

*Government House,  
Montreal, January 16, 1840.*

YOUR Lordship has been apprised by my despatch (and inclosures) of the 27th ult., of the actual circumstances connected with the question of the disputed territory with the State of Maine, so far as I am acquainted with them.

Having read the Message of the Governor of that State to the Legislature, of which I herewith transmit an extract, I beg to call your Lordship's attention to the following observations upon it:—

1st. It is not true that the British authorities have built barracks on both sides of the St. John's River, near the Mouth of the Madawaska River.

No new barracks have been built anywhere.

2nd. The barracks at the Temiscouata Lake have been always occupied by a detachment of Her Majesty's regular troops; and the only movement in that



direction that has lately occurred, has been the relief of a detachment of the 24th Regiment (the head-quarters of which is at Montreal) by a detachment of the 11th Regiment stationed at Quebec.

This exchange took place for obvious purposes of discipline ; and a detachment at that post must not be left without stores and ammunition.

The barracks at the Temiscouata Lake have not therefore been lately built or occupied ; neither has the small detachment stationed there, or the still smaller of five men at the Dégelée post, to which Governor Fairfield may be supposed to allude, been placed on the line of communication between Quebec and Fredericton for other objects than to secure the buildings and stores necessary for the accommodation of Her Majesty's troops, if required to march that way.

3rd. But the armed bands, calling themselves citizens of the State of Maine, have built and have occupied a log fortalice, of a strong description, at the mouth of the Fish River, at its junction with the St. John's.

They are now erecting a second block-house similar to the above, and within 250 yards of it, with cooking house and stables, the whole being surrounded with strong abattis.

Roads of communication and support have been cut in various directions from this military advanced post, of which I possess a plan that can be shown to Governor Fairfield, if he be ignorant of this armed occupation of an important part of the disputed territory.

A copy of this letter will be sent to Her Majesty's Minister at Washington.

I have, &c.,  
(Signed) R. D. JACKSON.

Inclosure 3 in No. 29.

*Extract from the Message of the Governor of the State of Maine ; January 3, 1840.*

THESE Commissioners have completed the exploration, and returned to England to report to their Government. What that report is to be, or what is to be the effect of it remains to be seen. The courtesy due from one Government to another requires us, perhaps, to believe that the real and avowed design are the same ; and that this Survey has been undertaken really for the acquisition of information, and not for mere purposes of delay. At all events a short time will determine. As the Commissioners may be expected to have reached England about the 1st of January, there will be ample time before the termination of your present Session, supposing it to be of the usual length, for the British Government to avail itself of its additional information, and to communicate with the Government of the United States, in reply to the counter proposition submitted many months ago. If such communication should not be made within the time anticipated, I think you may fairly regard the British Government as having returned to its old practice of procrastination, and will be justified in adopting more vigorous and determined measures than have ever heretofore been adopted to secure to this State, both her property and jurisdiction in her lawful territory ; unless the necessity for such a course should be obviated by the action of the General Government. What those measures should be, may properly be left to future consideration. I need not say that in all your efforts to secure to Maine her just rights, you may depend upon my hearty co-operation.

It is admitted that one or two Companies of British troops have been stationed at Temiscouata Lake, but it is alleged by the Lieutenant-Governor to have been done, not by his own orders, but by the authorities of Lower Canada. This movement I cannot but regard, under whatever branch of British Authority, or on whatever pretence it may have been made, not only as a violation of the spirit of the arrangement agreed upon in March last, but as clearly an invasion of our territory. Under these circumstances, I deemed it to be my duty immediately to communicate the facts to the President of the United States with other, though less official, information received, of the building of barracks by the British Government, on both sides of the St. John, near the mouth of the Madawaska River, which I did, calling officially for that action on the part of the General Government, which the case required, and the Constitution and Laws of the United States clearly enjoined.

(Signed) JOHN FAIRFIELD.

## No. 30.

*Mr. Fox to Viscount Palmerston.—(Received April 4, 1840.)*

(Extract.)

*Washington, March 17, 1840.*

THE last despatch which I had the honour to address to your Lordship upon the subject of the boundary negotiation, and the affairs of the disputed territory, was dated on the 11th of January.

The unexpected failure of the voyages of both the steam packets, the "Liverpool" and the "British Queen," which continued, however, to be expected at New York from day to day during the greater part of January and February, has occasioned the subsequent interruption of my official correspondence.

The delay enables me now to lay before your Lordship in a more connected form, a statement of the proceedings which have been had at Washington, with reference to the boundary dispute. I have the satisfaction to think, that although much excitement has been raised, yet upon the whole, the controversy is placed upon a more favourable footing than it appeared likely to be at the date of my last despatch; that is to say, there is a better prospect of the negotiation being left from henceforward in the hands of the two national Governments, and less hazard of the same being interrupted by partial acts of violence proceeding from the Government of the State of Maine.

I have the honour to inclose in the present despatch, first, a series of correspondence between the United States Secretary of State and myself, of dates subsequent to that of the American official note of the 24th of December, of which a copy was transmitted in my despatch of the 11th of January. The latest document in the series now inclosed is a note dated the 13th of the present month, which I addressed to Mr. Forsyth in conformity with the instructions contained in your Lordship's despatch of the 19th of February.

Secondly, I inclose printed copies of recent messages transmitted by the President to Congress, in which he communicates the letters that have passed between Mr. Forsyth and myself, together with correspondence between the Federal Government and the Government of Maine, and various other papers of earlier date connected with the same question of the north-eastern boundary.

With reference to my official correspondence with the American Government, it is a great satisfaction to me to find that the language which I had judged it my duty to hold, accords substantially with the tenor of the instructions since received from your Lordship.

I had only laid somewhat greater stress upon the threats used by the people of Maine of attempting still more extensive acts of aggression over the disputed territory than those already committed, in consequence of such threats being most significantly uttered in public documents, proceeding from the authorities of Maine, the knowledge of which had not reached Her Majesty's Government at the date of your Lordship's despatches.

In the public message transmitted by the Governor of Maine to the Legislature of the State on the 3rd of January, already in the possession of Her Majesty's Government, it will have been seen that the Governor of the State recommends to the Legislature, that if the final answer from Great Britain should not be received (as he must have very well known it could not be) before the period of their adjournment, they should proceed to more vigorous measures than have yet been adopted, for securing the claim of Maine to the disputed territory. Now such "more vigorous measures," when all that has already been done is taken into consideration, cannot possibly be supposed to mean anything else, as it appears to me, than an attempt to gain possession of the disputed territory by violence, and to keep it.

But it will be seen that the same threat of interrupting the negotiation by force and violence, is uttered in a more direct and significant manner in a



public letter from Governor Fairfield to the President of the United States dated the 21st of November, which will be found amongst the printed papers herewith inclosed, that were communicated by the President to Congress on the 23rd of January. In the concluding paragraph of that letter the Governor of Maine declares, that although Maine has not yet taken military possession of the disputed territory, a continued disposition on the part of Great Britain to delay a settlement of the question (and upon this point the people of Maine intend apparently to arrogate to themselves the privilege of judging and deciding), will not fail to induce such a step, whatever may be the consequences.

It is most clear that the above passages, taken into account with the acts of encroachment and aggression already committed by the armed bands of Maine in the valleys of the Aroostook, Fish River, and St. John (which so far from being disapproved, discontinued, or satisfactorily explained, are on the contrary ostentatiously persisted in, and formally avowed), constitute altogether an ample justification of whatever military arrangements Her Majesty's Authorities may deem it prudent to adopt in defence of Her Majesty's rights.

Notwithstanding, however, the above menaces on the part of the people of Maine, I have now come to the opinion, observing what has passed since I last addressed your Lordship, that no attempt will in fact be made during the present year, by the Executive or Legislature of Maine, to carry their evil designs into execution. My belief now is, that the Government and people of Maine will content themselves for the present year with complaining and protesting against the acts of Great Britain, and with appealing to the General Government of the United States.

I have stated this opinion, with more explanation and detail, in letters addressed to the Governor-General and to Sir John Harvey. I am, since, further confirmed in the same opinion, by a communication that has been made to me of the substance of a set of resolutions introduced in the House of Representatives of Maine on the 4th of this month, by Mr. Paine an administration member of the Maine Legislature. I herewith inclose a copy of these resolutions. Your Lordship will perceive that although the language they contain with reference to the American claim to the disputed territory is unjustifiable in the highest degree, yet, that if carried, they will have, practically, the beneficial effect of diminishing the hazard of partial collision on the border for the ensuing year, and of tending for so long to leave the boundary dispute to be conducted, whether to peace or war, in an open and intelligible manner by the two national Governments. The resolutions have been referred to a committee, and will probably not be voted upon until towards the close of the session of the Maine Legislature in the month of April; but as they are introduced by a leading administration member of the Maine House of Representatives, where the administration party have a majority, I entertain no doubt of their being carried.

Your Lordship will perceive, upon referring to the latter part of my official correspondence with Mr. Forsyth, that I fell into an error upon a point of fact, (a trivial one, I think, as it did not affect the essential parts of the argument,) in stating to the United States Government in my note of the 26th of January, that the British force occupying the barracks at Lake Temiscouata, amounted to one company, only. I had been under the impression, that as the movement of Her Majesty's troops, in force, into the disputed territory, as at first intended, had been countermanded, the detachment stationed at Temiscouata, amounted to no more than what I stated. I admitted the mistake, such as it was, in my subsequent note to Mr. Forsyth, of the 7th of March. For the rest of the statement contained in my note of the 26th of January, both as regards the amount of the British military preparations, and the motives, I was guided by the official despatch from Lieutenant-General Sir Richard Jackson to Lord John Russell, of the 11th of January, of which Sir Richard Jackson, communicated to me a copy, and by a letter of the 11th of January, from Sir John Harvey to myself, of which a copy will be found amongst the inclosed papers. It will be seen that the whole statement, both as to the amount of the preparations, and the motives for them, is now contested by the authorities of Maine, and upon the faith of their assertions, by the General Government also. I shall not, as at present advised, suffer

myself to be drawn into any further controversy with the American Government, upon this part of the subject; as I could not do so without indirectly admitting, what cannot be admitted,—that under the circumstances of the attitude assumed by the State of Maine, the United States Government have any right to call for an explanation of the British military arrangements within that portion of the disputed territory referred to.

The papers communicated by the President to Congress, of which printed copies are herewith forwarded, have been referred to the Committee of Foreign Affairs of the Senate. They have not yet come before the House of Representatives. The last part of the correspondence between Mr. Forsyth and myself, and the communications from Maine, contesting my information as to the state of the British military preparations have also been transmitted to the Senate, but have not yet been printed for the use of Congress; imperfect copies only having been published by the reporters for the newspapers.

The Committee of Foreign Affairs of the Senate have not yet made their report.

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Inclosure 1 in No. 30.

*Mr. Fox to Mr. Forsyth.*

*Washington, January 12, 1840.*

THE Undersigned, Her Britannic Majesty's Envoy Extraordinary and Minister Plenipotentiary, has the honour to acknowledge the receipt of the official note addressed to him by the Secretary of State of the United States, on the 24th of December, in reply to a previous note which the Undersigned had addressed to the Secretary of State on the 2nd of November, in relation to the various and continued acts of encroachment committed by the authorities, and by the inhabitants of the State of Maine, within that tract of territory on the north-eastern frontier of the United States, the true title to the possession of which, according to the terms of the Treaty of 1783, is at present in dispute between the Governments of Great Britain and America.

The Undersigned has lost no time in transmitting to Her Majesty's Government the official note of the Secretary of State. He has, in the mean time, to express his extreme regret, that the explanations furnished by the authorities of Maine, and communicated to the Undersigned by the Secretary of State, in relation to the acts of encroachment complained of, both as regards the construction of roads and public works, and the sale and alienation of lands, are of a character which must render them altogether unsatisfactory to the Government of Great Britain. It would appear, in fact, as if a reference by the General Government to the Authorities of Maine, of the complaints preferred by Her Majesty's Government, had produced no other reply or explanation from the Authorities of Maine, than a reiteration of their intention to persist in the commission of the acts complained of, whether in accordance with the obligations of international justice or not.

The Undersigned does not permit himself to relinquish the hope, that through the wisdom and integrity of the General Government of the United States in unison with the sincere endeavours of Her Majesty's Government, it will still be found possible to bring the pending controversy of the disputed boundary to a satisfactory and amicable conclusion: but it is certain that the public acts and public declarations of the Authorities of the State of Maine are continually calculated, as far as in them lies, to render such amicable conclusion more difficult and more distant.

With reference to the latter part of the official note of the Secretary of State of the United States, and to the observations therein contained respecting certain reported movements of British troops in the neighbourhood of Lake Temiscouata, and at other points within that portion of the disputed territory where, according to the provisional engagements entered into at the beginning of last year, no interference was to be attempted with the exercise of British authority, pending the negotiation of the Boundary Question,—the Undersigned can distinctly assure the Secretary of State that there exists no



intention on the part of Her Majesty's authorities to cancel or infringe the terms of those provisional engagements, so long as the same shall be observed with fidelity by the other party.

The particular motives, and the amount of the movement of troops at present referred to, have been explained in a frank and satisfactory manner, to the Governor of Maine by the Lieutenant-Governor of New Brunswick, in a correspondence which has been made public, and which, it appears, has been officially communicated by the Government of Maine to the President of the United States.

With regard, however, generally, to the reinforcement of military posts, and other defensive and precautionary measures, whether along the confines of the disputed territory, or within that part of it where, according to the provisional engagements before cited, the authority of Great Britain was not to be interfered with, the Undersigned has to observe, that the adoption of such measures by Her Majesty's Authorities, cannot be with reason objected to, or complained of by the Government of the United States, when regard is had to the reports which for some time past have been circulated, (and of the prevalence and consistency of those reports the United States Government are themselves fully aware,) respecting the probable intention of the Legislature of the State of Maine, to revoke during the present Session, the provisional agreements now in force, and to authorize some new and extensive act of aggression over the disputed territory. And the Undersigned has regretted to observe, that the language of the Governor of Maine, in his recent message to the Legislature at the opening of the Session, is calculated to encourage rather than to restrain such rash and obnoxious designs.

The Undersigned has the honour, &c.,

(Signed)

H. S. FOX.

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Inclosure 2 in No. 30.

*Mr. Forsyth to Mr. Fox.*

*Department of State,  
Washington, January 16, 1840.*

IN a note which Mr. Fox, Envoy Extraordinary and Minister Plenipotentiary of Great Britain, addressed on the 12th instant to the Undersigned, Secretary of State of the United States, Mr. Fox, alluding to a complaint made by the Undersigned, of certain reported movements of British troops in portions of the territory in dispute between the two countries, disclaims all intention on the part of the British authorities, to cancel or infringe the terms of the provisional agreement entered into at the beginning of last year; and this disclaimer is connected with an assumption of the right of Great Britain to strengthen posts, and take measures of [military] precaution, not along the line only, but within portions of the disputed territory; as by the terms of the agreements referred to, no interference was to be attempted, pending the negotiation of the Boundary Question, with the exercise of British authority in the neighbourhood of Lake Temiscouata, and at other points within a portion of the territory supposed to be embraced in the terms of the arrangements. Mr. Fox having stated that he has referred to his Government the representations of the United States against the military movements alluded to, the Undersigned, under a confident expectation that the matter will present itself to the minds of Her Majesty's Ministers in a light different from that in which it is understood by Mr. Fox, would have refrained from any further remarks on the subject; but, in order to obviate the risk of any misapprehension as to the views of the President concerning it, and inasmuch as the ground assumed by Mr. Fox with respect to the import of the existing arrangements, would, if admitted by the United States, give to those arrangements a scope not authorized, either by the language in which they are expressed, nor by what is believed to be the intention of the parties, it is proper that the Undersigned should call Mr. Fox's immediate attention to the express provisions of the agreement signed by him and the Undersigned, and of that which was subscribed to, under

the agency of General Scott, by the Governor of Maine and the Lieutenant-Governor of New Brunswick.

The main object of those agreements, obviously, was the restoration and future maintenance of tranquillity in the disputed territory; and, as the means of most surely attaining that object, the entire exclusion from its limits of all military force, to whichever side belonging, and the delegation to the civil authority, exclusively, of the exercise of all power and jurisdiction. With that view, under the first mentioned of those agreements, it was only in case of necessity for dispersing notorious trespassers, or protecting public property from depredations, that armed force was to be employed on either side, and then the operation was to be conducted by concert, jointly or separately, according to agreement between the Governments of Maine and New Brunswick. The other was the result of the contemplated concert between the Governments of Maine and New Brunswick; was intended to carry out the object of the first; confided to the State of Maine the duty of protecting the timber recently cut, and of preventing further depredations, and prescribed that these objects were to be accomplished through the agency of a civil posse: accordingly, the Governor of Maine engaged to withdraw, without unnecessary delay, the military force of the State. Without regard, therefore, to the limits within which either party had before exercised jurisdiction, resort to military force, for any purpose whatever, was interdicted to both parties. With reference to the extent of territory within which each party was to continue to exercise jurisdiction, the first agreement left the question of right where it had stood before, and only expressed the conflicting understanding of that question by the Governments of the United States and Great Britain respectively. The agreement between Governor Fairfield and Sir John Harvey, provided, likewise, that the question of possession and jurisdiction should remain as it then stood; but stated where it stood, by providing that Great Britain was to continue holding, in fact, possession of a part of the territory, meaning that part embraced in the Madawaska settlements, in the occupancy of which, as well as in the enjoyment of the usual communications between New Brunswick and Her Majesty's Upper Provinces, the Governor of Maine disclaimed all intentions of disturbing the British Authorities. Beyond the Madawaska settlements, therefore, circumscribed by the limits in which they stood at the date of the agreement, the United States cannot, under the terms of that agreement, recognize in the British Authorities the right of extending jurisdiction, much less that of forming any military establishments, beyond or within them; and those, consequently, which formed the subject of the representations in the note of the Undersigned of the 24th of December, pushed, as they are alleged to have been, into tracts of country far beyond any acknowledged limits of those settlements, and wholly unconnected with them, cannot be viewed in any other light than a bold infraction of existing arrangements. That such is a just view of the agreements cannot be disputed by Great Britain, as Her Majesty's Government has adopted and acted upon it. In the note of Mr. Fox, complaining of the encroachments on the part of Maine, and an armed occupation of part of the disputed territory by that State, both were treated as inconsistent with the existing arrangements; and it is presumed, Her Majesty's Government will not attempt to apply one rule of construction to defend the military movements of its colonial authorities, and another to sustain complaints against the State Government, for acts which are not founded upon any apprehended necessity of the use of a regular military force for offensive or defensive purposes. Nor can it be imagined that it will be contended that those arrangements are not perfectly reciprocal, or that there is any difference in the character and the extent of the jurisdiction to be exercised by Great Britain in one portion, and that by the State of Maine or the United States, in the other portion of the disputed territory comprehended within the temporary arrangements made to preserve tranquillity in both, and guard against any hostile collision between the State and Colonial Governments.

The Undersigned, having laid Mr. Fox's note before the President, is instructed to state to him, that no occasion is perceived for doubting the disposition of the Governor of Maine, scrupulously to adhere to the spirit of the existing arrangements, and to avoid all acts tending to render more diffi-



cult and distant the final adjustment of the main question of boundary between the two countries; but in repeating assurances of the readiness of the United States Government, to contribute by all means in its power to an amicable termination of the difference, the Undersigned is bound to declare, that a persistence in, or a repetition of, such acts, on the part of Her Majesty's Agents, as those now complained of, would, if avowed by Great Britain, be considered as but little in accordance with those assurances.

The Undersigned avails himself of this occasion, &c.,

(Signed) JOHN FORSYTH.

Inclosure 3 in No. 30.

*Mr. Fox to Mr. Forsyth.*

*Washington, January 26, 1840.*

THE Undersigned, Her Britannic Majesty's Envoy Extraordinary and Minister Plenipotentiary, has the honour to acquaint Mr. Forsyth, Secretary of State of the United States, that since the date of his last official Note of the 12th instant, he has been furnished by Her Majesty's Authorities in North America with more correct information than he then possessed, respecting certain reported movements of British troops within the disputed territory, which formed the subject of a part of that official Note, as well as of the two official Notes addressed by the Secretary of State to the Undersigned, on the 24th of December, and on the 16th of the present month. The same reported movements of troops were referred to in a recent message from the Governor of Maine to the Legislature of the State, and also in a published official letter addressed by the Governor of Maine to the President of the United States on the 23rd of December.

It appears from accurate information now in the possession of the Undersigned, that the Governor of Maine, and through him, the President and General Government of the United States, have been misinformed as to the facts. In the first place, no reinforcement has been marched to the British post at the Lake Temiscouata: the only change occurring there has been the relief of a detachment of Her Majesty's 24th Regiment, by a detachment of the same force of the 11th Regiment, this force of one company being now stationed at the Temiscouata post, as it always has been, for the necessary purpose of protecting the stores and accommodations provided for the use of Her Majesty's troops, who may be required, as heretofore, to march by that route to and from the provinces of Canada and New Brunswick. In the second place, it is not true that the British Authorities either have built, or are building barracks on both sides of the St. John's River, or at the mouth of the Madawaska River: no new barracks have in fact been built anywhere. In the third place, Her Majesty's Authorities are not concentrating a military force at the Grand Falls: the same trifling force of sixteen men, is now stationed at the post of the Grand Falls, which has been stationed there for the last twelve months. It was perhaps, however, needless for the Undersigned to advert to this last matter at all, as the post of the Grand Falls is beyond the bounds of the disputed territory, and within the acknowledged limits of New Brunswick.

The Undersigned, while conveying the above information, upon a matter of fact, to the Secretary of State of the United States, takes occasion to repeat distinctly his former declaration, that there exists no intention on the part of Her Majesty's Authorities, to infringe the terms of those provisional agreements which were entered into at the beginning of last year, so long as there is reason to trust that the same will be faithfully adhered to by the opposite party. But it is the duty of the Undersigned at the same time clearly to state, that Her Majesty's Authorities in North America, taking into view the attitude now assumed by the State of Maine, with reference to the Boundary Question, will, as at present advised, be governed entirely by circumstances, in adopting such measures of defence and precaution, (whether along the confines of the disputed territory, or within that portion of it, where, it has been before explained, the authority of Great Britain, according to the existing agreements, was not to be interfered with,) as may seem to them necessary, for guarding against, or for promptly repelling, the further acts of hostile aggression over the whole of the disputed

territory, which it appears to be the avowed design of the State of Maine, sooner or later to attempt.

For the Undersigned has to observe, that not only is the extensive system of encroachment, which was denounced and remonstrated against by the Undersigned in his official Note of the 2nd of last November, still carried on and persisted in by the armed bands employed by the Authorities of Maine in the districts about the Aroostook and Fish Rivers; but that acts, as above stated, of a character yet more violent, and obnoxious to the rights of Great Britain, and more dangerous to the preservation of the general peace, are with certainty meditated by the inhabitants of that State. The existence of such designs has for months past been a matter of notoriety by public report: those designs were plainly indicated in the recent message of the Governor of Maine to the Legislature of the State: and they are avowed in more explicit terms, in the letter addressed to the President of the United States by the Governor of Maine on the 21st of November, which letter has within the last few days been communicated to Congress, and published.

The Undersigned, it is true, has been assured by the Secretary of State in his Note of the 16th of this month, that the General Government see no reason to doubt the disposition of the Governor of Maine to adhere to the existing arrangements, and to avoid all acts tending to render more difficult and distant the final adjustment of the Boundary Question. But in face of the above clear indications of the intentions of Maine, as given out by the parties themselves, the Secretary of State has not given to the Undersigned any adequate assurance, that Maine will be constrained to desist from carrying those intentions into effect, if, contrary to the expectations of the General Government, the Legislature or the Executive of the State should think fit to make the attempt.

The Undersigned not only preserves the hope, but he entertains the firm belief, that if the duty of negotiating the Boundary Question be left in the hands of the two National Governments, to whom alone it of right belongs, the difficulty of conducting the negotiation to an amicable issue will not be found so great as has been by many persons apprehended. But the case will become wholly altered, if the people of the State of Maine, who, though interested in the result, are not charged with the negotiation, shall attempt to interrupt it by violence.

Her Majesty's Authorities in North America have, on their part, no desire or intention to interfere with the course of the pending negotiation by an exertion of military force: but they will, as at present advised, consult their own discretion in adopting the measures of defence that may be rendered necessary, by the threats of a violent interruption of the negotiation which have been used by all parties in Maine, and which the Undersigned regrets to find confirmed by the language, (as above referred to,) employed by the highest official Authority in that State.

The Undersigned avails himself, &c.,

(Signed)

H. S. FOX.

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Inclosure 4 in No. 30.

*Mr. Forsyth to Mr. Fox.*

*Department of State,  
Washington, January 28, 1840.*

THE Undersigned, Secretary of State of the United States, has the honor to reply, by direction of the President, to the note addressed to him on the 26th instant by Mr. Fox, Envoy Extraordinary and Minister Plenipotentiary of Great Britain.

The President derives great satisfaction from the information conveyed by Mr. Fox's note, that with reference to the reported movements of British troops within the territory in dispute, no actual change has taken place in the attitude of Her Majesty's Authorities in the territory since the arrangements entered into by the two Governments at the commencement of last year for the preservation of tranquillity within its limits; and from his assurances that there exists no intention on the part of Her Majesty's Authorities to infringe



the terms of those arrangements, so long as they are faithfully observed on the side of the United States. The President, however, cannot repress a feeling of regret that the British Colonial Authorities, without graver motives than the possibility of a departure from the arrangements referred to, by the State of Maine, should take upon themselves the discretion, and along with it the fearful responsibility of probable consequences, of being guided by circumstances, liable as these are to be misapprehended and misjudged, in the adoption within the disputed territory of measures of defence and precaution, in manifest violation of the understanding between the two countries whenever they may imagine that acts of hostile aggression over the disputed territory are meditated or threatened on the part of the State of Maine. The President cannot but hope that, when Her Majesty's Government shall be apprized of the position assumed in this regard by its agents, proper steps will be taken to place the performance of express and solemn agreements upon a more secure basis than Colonial discretion to be exercised on apprehended disregard of such agreements on the part of the State of Maine.

It is gratifying to the President to perceive that Mr. Fox entertains the firm belief that the difficulty of conducting to an amicable issue the pending negotiation for the adjustment of the question of Boundary is not so great as has, by many persons, been apprehended. As, under a corresponding conviction, the United States have, with a view to the final settlement of that exciting question, submitted a proposition for the consideration of Her Majesty's Government, the President hopes that the sentiments expressed by Mr. Fox have their foundation in an expectation of his having it in his power at an early day to communicate to this Government, a result of the deliberations had by that of Her Britannic Majesty, upon the proposition alluded to, which will present the prospect of a prompt and satisfactory settlement, and which when known by the State of Maine, will put an end to all grounds of apprehension of intentions or disposition on her part to adopt any measures calculated to embarrass the negotiation, or to involve a departure from the provisional arrangements. In the existence of those arrangements the United States behold an earnest of the mutual desire of the two Governments to divest a question abounding in causes of deep and growing excitement of as much as possible of the asperity and hostile feeling it is calculated to engender, but unless attended with the most scrupulous observance of the spirit and letter of their provisions, it would prove but one more cause, added to the many already prevailing, of enmity and discord. Mr. Fox has already been made the channel of conveyance to his Government, of the desire and determination of the President that the obligations of the country shall be faithfully discharged: that desire is prompted by a sense of expediency as well as of justice, and by an anxious wish to preserve the amicable relations now, so manifestly for the advantage of both, subsisting between the United States and Great Britain.

The Undersigned avails himself, &c.

(Signed)

JOHN FORSYTH.

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Inclosure 5 in No. 30.

*Mr. Forsyth to Mr. Fox.*

Dear Sir,

*Department of State,  
Washington, February 26, 1840.*

I COMMUNICATE to you, informally, in accordance with the promise verbally made in the conversation I had with you a few days since, copies of three depositions recently received in a letter from the Governor of Maine, in relation to alleged movements of British troops within the disputed territory, intending to address you officially on this subject as soon as a communication expected from Governor Fairfield shall have been received.

I avail myself, &c.,

(Signed)

JOHN FORSYTH.

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## Inclosure 6 in No. 30.

*Deposition of Mr. Varnum, in relation to the movements of British troops within the disputed territory.*

HAVING just returned from Temiscouata Lake, where I have been on private business, and being requested by the Governor to communicate such facts as have fallen under my observation while there, I depose and say, That the Provincial Authorities have the past season erected extensive military works at the head of the lake, and others near the foot of the lake, beside the Madawaska River, that are just completed. The erections at this last station consist of barracks sufficient for some 400 men and a store-house, in charge of eight men. At the head of the lake there are some eight or ten buildings, two of which are large, two stories high, and furnishing quarters for some 200 to 600 men. A stockade of timbers, to inclose these works, has been commenced, two or three hundred feet of which as I should judge has been completed. A road connecting these parts has been constructed the past season, a distance of about sixteen miles. I was at the stations above referred to in May last. At the post at the foot of the lake there were then no barracks and no men. At the other there were some French labourers, just commencing the post, but no soldiers had then arrived, but now about 200 soldiers, as I was informed when there, and I should judge there was that number from the appearance of the camp, are stationed at this place under the command of a Major Chambry.

*Augusta, February 11, 1840.*

(Signed) P. VARNUM.

*Kennebec ss. February 11, 1840.*

THEN the abovenamed Phiness Varnum made oath that this deposition by him subscribed is true.

Before me  
(Signed)

ALPHEUS LYON,  
*Justice of the Peace*

STATE OF MAINE.

*Secretary's Office, Augusta, February 12, 1840.*

I HEREBY certify that the foregoing is a true copy of the original deposited in this office.

Attest:  
(Signed)

PHILIP C. JOHNSON,  
*Secretary of State.*

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Inclosure 7 in No. 30.

*Deposition of Mr. Mark Little.*

I, MARK LITTLE, of Bangor, in the State of Maine, depose and say, That, in October last, I was at the Temiscouata Lake in what is called the disputed territory, having been sent there upon public business by Charles Jarvis, Esq., Provisional Land Agent for the State of Maine. At the head of the lake, upon the westerly side, there was then stationed a part of one company of British troops, say not exceeding twenty-five in number. They had been at that place, as I was then and there informed, since the month of June preceding; they had apparently a year's supply of provisions for two hundred men. I learned from them that they were the first that had ever been stationed there, and that their force was to be increased to two hundred men. They had among other officers, a surgeon, commissary, and barrack-master. They had then erected two buildings of timber for barracks, each eighty feet long by thirty feet wide, and two stories high; one building for officers' quarters, and one for the commissary department, besides a number of smaller ones. They had also built four gun-boats for the navigation of the lake, each capable of holding from twenty to thirty men.



At the lower end of the lake and head of Madawaska River, the Provincial Authorities have erected two buildings of timber, for barracks, capable of holding from 300 to 400 men, and one building for a store-house. There was a quantity of supplies, and one man only in charge at that time.

The Provincial Authorities have also made a tow-path the whole length of the Madawaska, for the better navigation of that river. They have also made a road leading from the barracks at the head of the river to the barracks at the head of the lake, distance about twenty miles; to be continued next year, as I was there informed, to the St. John's, distance about thirty miles. They have also made extensive repairs in the road leading from the barracks at the head of the lake to their military post at the River Des Loups, distance about thirty-six miles, one-half of it in the State of Maine; all this has been done within the last year.

Their buildings are of a permanent character. The position at the head of the lake is a commanding [one]; and I was informed while there, that it was in contemplation to surround their works with a stockade, and make it a strong military post.

At Madawaska Settlement they have engaged a couple of houses for the reception of troops, and two men there in charge.

(Signed) MARK LITTLE.

Bangor, February 13, 1840.

*Penobscot, ss. Bangor, February, 13, 1840.*

THEN personally appeared Mark Little, and made oath to the truth of the above statement by him signed before me.

(Signed) GUSTAVUS CUSHMAN,  
*Judge of the Police Court of the City  
of Bangor.*

STATE OF MAINE.

*Secretary's Office, Augusta, February 15, 1840.*

I HEREBY certify that the foregoing is a true copy of the original, on file in this office.

Attest :  
(Signed) PHILIP C. JOHNSON,  
*Secretary of State.*

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Inclosure 8 in No. 30.

*Deposition of Mr. Thomas Bartlett.*

I, THOMAS BARTLETT of Orono, do depose and say, That in August, A.D. 1839, being in the employ of the State of Maine, by direction of Colonel Jarvis, went from Fort Fairfield to Quebec, by the way of the Lake Temiscouata, upon the British Mail Route, to purchase supplies for the force at Fish River. At the foot of Lake Temiscouata there were in progress of erection, and nearly completed, two buildings, designed, as I was informed by the contractor, for quartering a British military force. The officers' quarters was a building thirty feet by twenty, according to my recollection; it might have been larger; that for soldiers, I was informed by the contractor, was seventy feet by about thirty. At the head of the said lake there were four buildings, some of which had been then very recently finished, and the others in progress of erection. These buildings were as follows, viz., quarters for officers, about forty feet by thirty feet; quarters for soldiers, in two buildings, each seventy feet by about thirty feet; and a commissary-house. At that same time they were preparing the foundation of a boat-house, of large dimensions, by excavating the bank of the lake. There were also upon the lake three Government transport boats, each capable of carrying fifty men. I was informed by a gentleman holding both a military and a civil commission under the British Government, that the foregoing establishments were erected by the British Authorities during the then present season.

There was stationed at the head of the lake a small detachment of eight

or twelve men, from the 24th British Regiment, under the command of a corporal or serjeant; a surgeon and commissary were attached to the post, on duty. The quarters at the foot of the lake were built of round timber, hewn upon the inside in a substantial but coarse manner.

Those at the head of the lake were neatly constructed of hewn timber, with a shingle roof, and painted. I think when I went to Quebec they were at work upon all the buildings, both at the foot and head of the lake; but when I returned, which was in September, some of the buildings were about completed. A road was at that time being made from the post at the head of Lake Temiscouata to the falls near the mouth of the Madawaska River, by contract with the British Government, or rather with Mr. McLauchlan, the late Warden of the disputed territory. I passed over a portion of said road, which had then been recently made. It was a well made permanent road. My information in relation to this road was acquired from the contractors who were at work upon it with their several crews of men.

(Signed)

THOMAS BARTLETT.

*Penobscot, ss. February 10, 1840.*

Sworn to before me,

(Signed)

SAMUEL CONEY,

*Justice of the Peace.*

Inclosure 9 in No. 30.

*Mr. Forsyth to Mr Fox.*

*Department of State, Washington, March 6, 1840.*

BY the directions of the President, the Undersigned, Secretary of State of the United States, communicates to Mr. Fox, Envoy Extraordinary and Minister Plenipotentiary of Great Britain, the inclosed copy of a Report made to the Governor of the State of Maine, by the Agent commissioned on the part of the authorities of that State to ascertain the precise character and extent of the occupation of parts of the disputed territory by troops of Her Britannic Majesty, and of the buildings and other public works constructed for their use and accommodation.

By the Report and the three depositions which the Undersigned informally communicated to Mr. Fox a few days since, he will perceive there must be some extraordinary misapprehension on his part, of the facts in relation to the occupation by British troops of portions of the disputed territory. The statements contained in these documents, and that given by Mr. Fox in his note of the 20th of January last, exhibit a striking discrepancy as to the number of troops now in the territory, as compared with those who were in it when the arrangement between Governor Fairfield and Lieutenant-Governor Harvey was agreed upon; and also as to the present and former state of the buildings there. The extensive accommodations prepared and preparing at an old and at new stations, the works finished and in the course of construction on the land and on the water, are not in harmony with the assurance that the only object is the preservation of a few unimportant buildings and storehouses for the temporary protection of the number of troops Her Majesty's ordinary service can require to pass on the road from New Brunswick to Canada.

The Undersigned will abstain from any remarks upon these contradictory statements until Mr. Fox shall have had an opportunity to obtain the means of fully explaining them. How essential it is that this should be promptly done, and that the steps necessary to a faithful observance on the part of Her Majesty's Colonial Authorities of the existing agreements between the two Governments should be immediately taken, Mr. Fox cannot fail fully to understand.

The Undersigned avails himself, &c.,

(Signed)

JOHN FORSYTH.



## Inclosure 10 in No. 30.

*Report to his Excellency the Honourable John Fairfield, Governor of Maine.*

*Augusta, Maine, February 27, 1840.*

THE Undersigned has the honour to report, that in accordance with your commission of the 6th instant, he proceeded immediately to the St. John's River, Temiscouata Lake, &c., and ascertained by actual observation the following facts.

That twenty-two miles below the mouth of Fish River, on the south side of the St. John's, and nearly opposite the Madawaska River, a house has been fitted up for *barracks*, and is rented by the English Government for that purpose, though no troops are there at present. It is built of hewn timber, two stories high, about sixty feet long and thirty wide; it has bunks prepared for over 100 men. It is now in charge of one man only. From thence he followed up the Madawaska River, observing the tow-path on its east bank, which has been made and repaired by the English Government, under contracts given out by James A. McLauchlan, Esq., of New Brunswick, the gentleman who has heretofore assumed to act as Warden of the disputed territory. This work was accomplished the last season; the length corresponds with that of the east side of the Madawaska River, which is about twenty-six miles long.

Two miles and a half below the foot of the Temiscouata Lake, on the west bank of the Madawaska River, the English erected early last summer a barrack about eighty feet long and thirty wide, and two small out-buildings. At this post there are now stationed one serjeant, one corporal, and five private soldiers of Company No. 3, 11th Regiment in the English service, where they have been since about the 1st of January last.

Near this point commences a road connecting it with the English works next described, built the past season, under contracts given out by said McLauchlan, for the distance of sixteen miles, ten of which are fully completed, and the remaining six nearly. That fifteen miles from the foot of the Temiscouata Lake on its west side, the English have erected eight buildings as barracks for soldiers, officers' quarters, a hospital, a magazine, a storehouse, and a commissary's house, all of which are surrounded by ditches, breastworks, and stockades on three sides; the fourth is not fully completed: an accurate plan of all these works accompanies this report, and is here particularly referred to.

From Major Chambri, the Commander at this Fort, who was first informed of the object and cause of the enquiries, and from his officers, the following facts were ascertained: That he was there stationed by the Government of the Canadas having under his command one company of grenadier soldiers, numbering about eighty-five men of the 11th Regiment, and one light company, the 3rd of the same regiment numbering about ninety men, in all 175, not including officers commissioned or servants. The names of the officers are Major Chambri, Captain Wallington, Lieutenants Bloss and Gould, and Ensign Tobun. That the barracks were commenced last spring, and some of the buildings are still unfinished; that the first soldiers were stationed here in June last, comprising a serjeant and corporal, and ten men of the 24th Regiment, and in November following said company of grenadiers were ordered to take their place, and that about the 1st of January last, they were reinforced by the said 3rd company. That the road from these barracks to the River des Loups has been made and repaired the past season, distance about thirty-six miles.

In addition, the Undersigned ascertained that the English have built at Lake Temiscouata a number of large flat-bottom boats, and also keel boats, each of which will serve to carry fifty men, and the flat-bottom boats would transport safely heavy ordnance. Outside the defences, the English have a boat and storehouse.

The works at this fort are calculated to be a sure defence against artillery and light arms, as will more fully appear from the plan annexed.

All of which is respectfully submitted.

(Signed)

BENJAMIN WIGGIN.

## STATE OF MAINE.

*Secretary's Office, Augusta, February 27, 1840.*

I do hereby certify that the foregoing is a true copy of the original deposited at this office.

Attest:  
(Signed) PHILIP C. JOHNSON,  
*Secretary of State.*

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Inclosure 11 in No. 30.

*Mr. Fox to Mr. Forsyth.*

*Washington, March 7, 1840.*

THE Undersigned, Her Britannic Majesty's Envoy Extraordinary and Minister Plenipotentiary, has the honour to acknowledge the receipt of the official note of yesterday's date, addressed to him by Mr. Forsyth, Secretary of State of the United States, to which is annexed the copy of a report from Mr. Benjamin Wiggin, an agent employed by the authorities of the State of Maine, to visit the British military post at Lake Temiscouata; and in which reference is made to other papers upon the same subject, which were informally communicated to the Undersigned by Mr. Forsyth, a few days before; and the attention of the Undersigned is called by Mr. Forsyth to different points upon which the information contained in the said papers is considered to be materially at variance with that which was conveyed to the United States Government by the Undersigned in his official note of the 26th of last January.

The Undersigned had already been made acquainted by the Lieutenant-Governor of New Brunswick, with the circumstance of Mr. Wiggin's visit to the military post at Lake Temiscouata, where the officer in command very properly furnished to Mr. Wiggin the requisite information upon all matters connected with the British station, which he appeared desirous to enquire about.

The alleged points of variance, after deducting what is fanciful and conjectural, in the reports now produced, and after comparing what is there stated, in contradiction to other reports before produced from the same quarters, do not appear to the Undersigned, to be by any means so material as they seem to have been considered by the Government of the United States. The British military detachment stationed at Lake Temiscouata, which the agents employed by the State of Maine had in the first instance, with singular exaggeration, represented as amounting to two regiments, is now discovered by the same parties to amount to one hundred and seventy-five men, which instead of two regiments is something less than two companies. It is indeed true, should such a point be considered worth discussing, that the Undersigned might have used a more technically correct expression in his note of the 26th of January, if he had stated the detachment in question to consist of from one to two companies, instead of stating it to consist of one company. But a detachment of Her Majesty's troops has been stationed at Lake Temiscouata, from time to time, ever since the winter of 1837 and 1838, when the necessity arose for marching reinforcements by that route, from New Brunswick to Canada; and it will be remembered that a temporary right of using that route for the same purpose was expressly reserved to Great Britain in the provisional agreement entered into at the beginning of last year. It is not therefore true that the stationing a military force at the Lake Temiscouata, is a new measure on the part of Her Majesty's authorities; neither is it true that that measure has been adopted for other purposes than to maintain the security of the customary line of communication, and to protect the buildings, stores, and accommodations provided for the use of Her Majesty's troops when on march by that route; and it was with a view to correct misapprehensions which appeared to exist upon those points, and thus to do away with one needless occasion of dispute, that the Undersigned conveyed to the United States Government, the information contained in his note of the 26th of January.

With regard again to the construction of barracks, and other buildings, and the preserving them in an efficient state of repair and defence, a similar degree



of error and misapprehension appears still to prevail in the minds of the American authorities.

The erection of those buildings within the portion of the disputed territory now referred to, for the shelter of Her Majesty's troops while on their march, and for the safe lodgement of the stores, is no new act on the part of Her Majesty's authorities. The buildings in question have been in the course of construction from a period antecedent to the provisional agreements of last year, and they are now maintained and occupied along the line of march, with a view to the same objects above specified, for which the small detachments of troops also referred to, are in like manner there stationed.

The Undersigned will not refrain from here remarking upon one point of comparison exhibited in the present controversy. It is admitted by the United States authorities, that the armed bands stationed by the Government of Maine in the neighbourhood of the Aroostook River, have fortified those 'stations with artillery; and it is now objected as matter of complaint against the British authorities with reference to the buildings at the Lake Temiscouata, not that those buildings are furnished with artillery, but only that they are defended by palisades capable of resisting artillery. It would be difficult to adduce stronger evidence of the acts on the one side being those of aggression, and on the other of defence.

The fact shortly is, and this is the essential point of the argument, that Her Majesty's authorities have not as yet altered their state of preparation, or strengthened their military means within the disputed territory, with a view to settling the question of the boundary, although the attitude assumed by the State of Maine, with reference to that question, would be a clear justification of such measures; and it is much to be apprehended that the adoption of such measures will sooner or later become indispensable, if the people of Maine be not compelled to desist from the extensive system of armed aggression which they are continuing to carry on in other parts of the same disputed territory.

The Undersigned avails himself, &c.,

(Signed)

H. S. FOX.

Inclosure 12 in No. 30.

*Mr. Fox to Mr. Forsyth.*

*Washington, March 13, 1840.*

THE Undersigned, Her Britannic Majesty's Envoy Extraordinary and Minister Plenipotentiary, has been instructed by his Government to make the following communication to the Secretary of State of the United States, in reference to the Boundary negotiation, and the affairs of the disputed territory.

Her Majesty's Government have had under their consideration the official note addressed to the Undersigned by the Secretary of State of the United States, on the 24th of last December, in reply to a note from the Undersigned, of the 2d of November preceding, in which the Undersigned protested, in the name of his Government, against the extensive system of aggression pursued by the people of the State of Maine within the disputed territory, to the prejudice of the rights of Great Britain, and in manifest violation of the provisional agreements entered into between the authorities of the two countries at the beginning of the last year.

Her Majesty's Government have also had their attention directed to the public message transmitted by the Governor of Maine to the Legislature of the State on the 3rd of January of the present year.

Upon a consideration of the statements contained in these two official documents, Her Majesty's Government regret to find that the principal acts of encroachment, which were denounced and complained of on the part of Great Britain, so far from being either disproved, or discontinued, or satisfactorily explained by the authorities of the State of Maine, are on the contrary, persisted in, and publicly avowed.

Her Majesty's Government have consequently instructed the Undersigned once more formally to protest against those acts of encroachment and aggression. Her Majesty's Government claim, and expect from the good faith of the Govern-

ment of the United States, that the people of Maine shall replace themselves in the situation in which they stood before the agreements of last year were signed; that they shall therefore retire from the valley of the St. John, and confine themselves to the Valley of the Aroostook; that they shall occupy that valley in a temporary manner only, for the purpose, as agreed upon, of preventing depredations; and that they shall not construct fortifications, nor make roads or permanent settlements.

Until this be done by the people of the State of Maine, and so long as that people shall persist in the present system of aggression, Her Majesty's Government will feel it their duty to make such military arrangements as may be required for the protection of Her Majesty's rights. And Her Majesty's Government deem it right to declare, that if the result of the unjustifiable proceedings of the State of Maine should be collision between Her Majesty's troops and the people of that State, the responsibility of all the consequences that may ensue therefrom, be they what they may, will rest with the people and Government of the United States.

The Undersigned has been instructed to add to this communication, that Her Majesty's Government are only waiting for the detailed report of the British Commissioners recently employed to survey the disputed territory, which report it was believed, would be completed and delivered to Her Majesty's Government by the end of the present month, in order to transmit to the Government of the United States, a reply to their last proposal upon the subject of the Boundary negotiation.

The Undersigned avails himself, &c.,

(Signed) H. S. FOX.

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Inclosure 13 in No. 30.

*Message from the President of the United States, communicating, in compliance with a resolution of the Senate, copies of correspondence in relation to the North-Eastern Boundary and the jurisdiction of the Disputed Territory; and, also, in relation to the establishment of military posts in the State of Maine.*

To the Senate of the United States,

Washington City,  
January 22, 1840.

IN compliance with the resolutions of the Senate of the 17th instant, I communicate a report and documents from the Secretary of State, and a report from the Secretary of War.

(Signed) M. VAN BUREN.

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Inclosure 14 in No. 30.

*Mr. Forsyth to the President of the United States.*

Department of State, January 22, 1840.

THE Secretary of State, to whom has been referred so much of a resolution of the Senate of the 17th instant, as requests the President to communicate to the Senate "all the correspondence which has been had between this and the British Government upon the subject of the north-eastern boundary, and of the jurisdiction of the disputed territory, which has not been communicated heretofore, or so much of it as in his opinion, may be communicated without prejudice to the pending negotiation; with all the correspondence which has been had, since the last session of Congress, with the Governor of the State of Maine and with the Minister of Her Britannic Majesty at Washington, relative to the invasion of the State of Maine, and to the exercise of jurisdiction within the disputed territory by either party, or so much thereof as he may deem consistent with the public interest,"—has the honour to lay before the President all the papers in the Department of State not before communicated, except those relating imme-



diately to the pending negotiation for the settlement of the north-eastern boundary, the state of which was communicated to Congress at the opening of the session.

(Signed) JOHN FORSYTH.

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Inclosure 15 in No. 30.

*Mr. Stevenson to Mr. Forsyth.*

*Legation of the United States,  
London, May 5, 1838.*

(Extract.)

I HAVE the honour herewith to transmit to you a copy of the last note received from Lord Palmerston, upon the subject of the north-eastern boundary, with my answer thereto. You will see, from my note, that the correspondence on my part is closed.

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Inclosure 16 in No. 30.

*Viscount Palmerston to Mr. Stevenson.*

*Foreign Office, April 16, 1838.*

[See Papers presented to Parliament in 1838, Class B, No. 10, p. 78.]

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Inclosure 17 in No. 30.

*Mr. Stevenson to Viscount Palmerston.*

*Portland Place, April 21, 1838.*

[See Papers presented to Parliament in 1838, Class B, No. 11, p. 79.]

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Inclosure 18 in No. 30.

*Mr. Stevenson to Mr. Forsyth.*

*Legation of the United States,  
London, March 6, 1838.*

(Extract.)

I HAD flattered myself that I should have been able, before this, to have communicated to you the favourable decision of this Government upon Mr. Greely's case. In this hope I have been disappointed. Although I have taken every favourable opportunity to urge the consideration of the subject on the Government, and to apprise Lord Palmerston of the state of feeling in Maine, and the desire of our Government to have it speedily adjusted, I deemed it proper to address to him last week another note, a copy of which I have now the honour to transmit to you. To this no reply has been received. The delay to act on the case has doubtless arisen from the wish of the Government here to communicate with the authorities of New Brunswick before a decision is made.

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Inclosure 19 in No. 30.

*Mr. Stevenson to Viscount Palmerston.*

*Portland Place, February 26, 1838.*

[See Papers presented to Parliament in 1838, Class B, No. 7, p. 74.]

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Inclosure 20 in No. 30.

*Mr. Stevenson to Mr. Forsyth.*

*Legation of the United States,  
London, March 26, 1838.*

(Extract.)

IN my despatch, No. 41, I informed you that I had written a third note to Lord Palmerston, urging the decision of the Government upon Mr. Greely's case. As I had hoped, it produced the desired effect, and I received last week his Lordship's answer, communicating the decision, a copy of which, with my reply, I have now the honour of transmitting to you. The character of Lord Palmerston's note, as you will see, is very decided, and manifests a settled determination on the part of this Government, to enforce its claim of jurisdiction over the disputed territory, pending the negotiation on the question of boundary, under the treaty. His Lordship's note reaffirms the grounds taken by Lord Aberdeen, in his communication to Mr. Lawrence of the 14th of August, 1828, in the case of Mr. Baker, which Lord Palmerston considers as entirely parallel with that of Mr. Greely. In my reply, I deemed it my duty to remonstrate against the whole proceeding, and to assert, respectfully, though with firmness, the just claims of the United States, and the determination of our Government to support them. I availed myself, moreover, of the opportunity to notice the doctrine asserted in Lord Aberdeen's note, that the recognition of the independence of the United States, by the Treaty of 1783, so far as our rights and territory were concerned, was to be regarded as a matter of "grant" and "cession." This, as you will see, I felt it my duty to expose and protest against, on the part of the United States. I have, however, little doubt, that while the Government here continue to assert the right of jurisdiction over the disputed territory, they will give orders (if they have not already done so) for the release of Mr. Greely.

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Inclosure 21 in No. 30.

*Viscount Palmerston to Mr. Stevenson.*

*Foreign Office, March 12, 1838.*

[See Papers presented to Parliament in 1838, Class B, No. 8, p. 75.]

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Inclosure 22 in No. 30.

*Mr. Stevenson to Viscount Palmerston.*

*Portland Place, March 20, 1838.*

[See Papers presented to Parliament in 1838, Class B, No. 9, p. 76.]

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Inclosure 23 in No. 30.

*Mr. Forsyth to Mr. Stevenson.*

*Department of State,  
Washington, March 6, 1839.*

Sir,

I HEREWITH transmit to you, for your information, several printed documents, embracing executive messages and other important papers relating to recent occurrences upon the northern frontier of the United States. A perusal of them will show you the urgency which now exists for the settlement of the boundary in that quarter, between the United States and the British provinces. The amicable relations subsisting between the two countries, are liable, daily and hourly, to disruption, from unfortunate collisions between citizens of the United States and Her Majesty's colonial subjects, and to occasional and most embarrassing difficulties between State and Provincial autho-



rities. It is proper, therefore, that you should immediately place yourself in communication with Her Majesty's Principal Secretary of State for Foreign Affairs, and press the importance of early action in regard to the matter of the north-eastern boundary, by considerations and arguments drawn from the existing state of things on our frontier, and the immediate jeopardy to which the interests and well-being of the two nations are thus exposed. You will also say that the President sincerely laments the delay, whatever its cause may be, that has prevented the adoption of measures, on the part of Her Majesty's Government, to meet his just expectations, by advancing the negotiation for the adjustment of the whole controversy; yet he confidently hopes that the motives, derivable from a knowledge of recent events on our borders, are too cogent to be disregarded, and that Her Majesty's Ministers will hasten to take proper steps to avert the calamity which now impends over the two countries. What has delayed instructions to Mr. Fox from Her Majesty's Government, it is impossible to conjecture. That gentleman informed me, in one of our interviews on the occurrence of the recent disturbances, that Mr. Hudson, his Secretary of Legation, lately arrived here, had seen in the Foreign Office, before he left London, a *projet* of the Convention for exploration and survey, which was intended to be proposed to the United States. This circumstance was the groundwork of the confident expectation, you will see, that Mr. Fox expressed of an early settlement of the principal question—an expectation which the President has a right to presume will not be disappointed.

You will perceive from the newspapers, that Congress, at the close of their late session, passed a law providing for a special mission to Great Britain, and giving additional powers to the President, in certain contingencies, to place the country in a state of defence, should measures of that character ultimately prove to be necessary. The place of negotiation, you are aware, has been already agreed upon; yet the President, desiring to conform to the indicated wishes of Congress, is willing to change it to London, should it be agreeable to Her Majesty's Government, and if it would, in their opinion, hasten or facilitate the final adjustment of the controversy. As the subject presses, you will urge the earliest determination on this point, and communicate it as soon as it is made known to you, that the present excitement may be allayed.

Mr. Fox, in a recent conversation with me, expressed his apprehension that the passage of this bill might be viewed by Her Majesty's Government as a minatory act on the part of the United States; to which observation I replied, by suggesting, that it was scarcely possible that any misapprehension of that kind could arise, since the fact was obvious, that the enactment was only in answer to the threat of the British provincial authorities. In this light you will of course regard it, in your intercourse with Lord Palmerston, and will, it is not doubted, be able to prevent any sinister interpretation of a measure so very evidently one of precaution.

I am, &c.,  
(Signed) JOHN FORSYTH.

Inclosure 24 in No. 30.

*Mr. Stevenson to Mr. Forsyth.*

Sir,

*Legation of the United States,  
London, April 5, 1839.*

I RECEIVED by the *Liverpool* steamer, which arrived last week, your despatch of the 6th of March, with the printed documents containing the President's messages to Congress, and other important papers relating to the recent occurrences upon our north-eastern frontier. By the same arrival, the Government here received official accounts from Mr. Fox and the Governor of New Brunswick. The *Scotland*, which preceded by a few hours the *Liverpool*, brought accounts to the 6th. Those by the *Liverpool* were to the 10th ultimo.

On Wednesday, the day your despatch was received, the motion which had been made by Sir C. Grey, for the production of papers in relation to the north-

eastern boundary, was to come up in the House of Commons. As the *Liverpool* had brought full accounts of the debates and proceedings of Congress, which produced, as might have been expected, a good deal of excitement for the moment, I thought it highly probable that another effort would be made to get up a debate upon the whole subject, with a view of drawing the ministry out upon the question of jurisdiction over the disputed territory, and the orders which had been given to Sir John Harvey, for the purpose of enforcing it.

Fearing that if this course was taken, serious injury might be done, by forestalling any satisfactory explanation between the two Governments on the question of exclusive jurisdiction, I became anxious to see and converse with Lord Palmerston on the subject, and ascertain, if I could, the course he intended to pursue. I accordingly had an interview with him at the Foreign Office. After a short conversation, I soon found that he viewed the subject as I did, and that he intended to decline all discussion of it at the present moment. On Wednesday night the House was counted out, and, of course, nothing done. On the next day, however, the subject came up; and you will see from the papers which I now forward, a report of the proceedings which took place. It ended in a prompt refusal by the Government, to furnish either papers or information at this stage of the negotiation. On that night Parliament adjourned for the Easter holidays, and will not reassemble until the 11th.

In pursuance of your instructions, I addressed a note to Lord Palmerston on the subject of the delay which had taken place in sending out to Mr. Fox the basis of the proposed Convention on the part of Great Britain, and the President's wishes in relation to the special mission authorized by the late Act of Congress. I have now the honour of transmitting a copy of my note, with Lord Palmerston's answer, and my reply.

You will see that I pressed the subject as one of great urgency, and did not fail to express, in the most emphatic manner, the President's surprise and regret at the delay which had taken place, in not forwarding sooner the necessary instructions to their Minister in Washington. I, of course, took care to do this in a manner which I thought best calculated to satisfy this Government, not only of the President's solicitude to hasten the negotiation, but of his sincere desire to preserve the best relations between the two Governments. The Convention, as you will see from Lord Palmerston's note, has been agreed to, and will be sent by the packet that takes out my despatches.

In relation to the special mission, that, as you will likewise see, has been promptly declined. In submitting this proposition I did it in the terms of your instructions. The day after my note was sent in, I was asked by Lord Palmerston whether the mission was intended to be separate, or united with this Legation. Having received no instructions on the subject, I could give no direct answer, but said, that I presumed from the manner in which it had been proposed in Congress, it was probably intended to be joint.

I omitted in my note to make any allusion to the character of the late proceedings connected with the defence of the country. As it was doubtful, from your despatch, in what manner you intended the subject to be treated, I determined to make no allusion to it in my note, but to hold myself in readiness if any explanation should be asked, to give the one I was authorized to do. As Lord Palmerston had said nothing on the subject, he doubtless regards it in its true light.

Having thus fulfilled the President's wishes as to the Convention for the survey, and obtained the decision of the Government as to the proposed mission, the only remaining subject of importance was that in relation to the British claim of exclusive jurisdiction over the disputed territory pending the controversy, and the nature of the instructions given to Sir John Harvey, and under which he justifies his late proceedings.

Upon this subject I had received no instructions, and, important as it was, I yet felt it to be one of some delicacy, and especially after the refusal of the Government to give any information when pressed to do so in Parliament. After the best reflection I could give the subject, I deemed it highly important to obtain, if practicable, the views of the Government and put the President in possession of them. For this purpose, I sought an interview with Lord Palmerston. I proceeded to state frankly my object, but said, at the same time, that I had received no instructions on the subject, and acted alone upon my own responsibility. I expressed the opinion that I thought it highly important



that there should be an immediate understanding between the two Governments, both as to the nature of the jurisdiction claimed and the agreement which had been supposed by Mr. Fox and Sir John Harvey to exist on the subject. I took occasion to refer to Mr. Fox's letter of the 23d of July last, and the late proclamation of the Governor of New Brunswick; that the public sensibility had been deeply excited on the subject, and that it was not confined to Maine, but had extended throughout the whole Union; that without some explanation, it would, I feared, operate as a bar to the negotiation that was now pending, and lead to unfortunate results. I did not conceal from Lord Palmerston my opinion, that probably the Government of the United States had yielded to the presumption that Mr. Fox and Sir John Harvey had misapprehended the wishes of Her Majesty's Government, as well as mistaken their instructions. That it was evident that there was a misunderstanding on the subject between the two Governments, and it was possible the difficulty might have arisen from confounding a claim of jurisdiction, for the purpose of preserving the peace and the property from injury, with the right of exercising acts of sovereign power, and that, if so, it was important that it should be explained. That, under such circumstances, if he felt at liberty to do so, I should feel gratified in any explanation he might think proper to give.

I am happy in having it in my power to inform you that Lord Palmerston, with his usual frankness, most readily yielded to my request, and said that he would with pleasure communicate to me his views on the subject.

He commenced by remarking that the late proceedings which had taken place in Congress had given a fresh proof of the close relationship of the two nations, and showed that the English habit of not reading, or of soon forgetting Parliamentary papers, prevailed equally in Congress with regard to papers laid before that body. He said that if those who had taken part in the recent debates at Washington had bore in mind the papers which had been communicated by the President to Congress in 1829, they would not have asserted that the British claim to jurisdiction was a new one, nor would they, he thought, have construed it in the unqualified sense in which they appeared to have done. The ground and nature of the claim of jurisdiction were explained, he said, by Sir Charles Vaughan, in his note to the Secretary of State of the 16th of September, 1827, and the very qualified and limited manner in which the right had been exercised, was also clearly stated by Sir Howard Douglas, in his despatch to Sir Charles Vaughan of the 4th of October, 1827, which was communicated to the Secretary of State on the 26th of the same month. The nature and grounds of the British claim, his Lordship said, were further explained by their Minister, in February, 1828, and in the note of Lord Aberdeen of the 14th of August, 1828. Lord Palmerston said that, from this correspondence, it would be seen that the British Government had not pretended to exercise any new act of sovereignty over any part of the disputed territory since the conclusion of the Treaty of Ghent, and that the jurisdiction they claimed over the unsettled and unoccupied part of the territory was in reality only safe custody of the property for the benefit of the future owner, and the prevention of the assemblage of lawless and disorderly persons thereon, to the annoyance and injury of the neighbouring districts. His Lordship further said, that they had not claimed that exercise of sovereignty which Her Majesty's Government were supposed in the United States to contend for. In proof of this, he begged to remind me that two years ago, upon a representation from our Government, the British Government put a stop to a plan for making a railway across the disputed territory, from Quebec to St. Andrew's, because the making of a new road would have implied an acknowledged right of sovereignty on the part of the British Government, while that right was the very question in dispute; and he also referred to a conversation which he held with me in December, 1837, in which he admitted that they did not feel themselves at liberty to march troops across the territory from New Brunswick to Canada, without a previous understanding with the United States Government on the subject. Lord Palmerston concluded, however, by saying that they were entitled to expect that such abstinence should be mutual, and that neither party would, while the general question was pending, either make settlements, cut timber, open roads, or establish military occupation, within the disputed territory.

I informed Lord Palmerston that I should communicate this explanation to my Government, to which he assented, and the interview closed.

I flatter myself that this information will be acceptable and beneficial, and

aid in bringing to a close the pending negotiation for the resurvey of the whole of the disputed territory.

I am strong in the opinion that, if there is another survey, the result will be favourable to a final adjustment of the whole subject. I have, indeed, looked to this as the only feasible scheme of placing the two Governments in possession of the necessary information to settle the controversy themselves, or enable a third Power to do so in case it should be again referred to arbitration.

I am, &c.,  
(Signed) A. STEVENSON.

Inclosure 25 in No. 30.

*Mr. Stevenson to Viscount Palmerston.*

*Portland Place, March 30, 1839.*

[See Inclosure 1 in No. 7, page 60.]

Inclosure 26 in No. 30.

*Viscount Palmerston to Mr. Stevenson.*

*Foreign Office, April 3, 1839.*

[See Inclosure 2 in No. 7, page 62.]

Inclosure 27 in No. 30.

*Mr. Stevenson to Viscount Palmerston.*

*Portland Place, April 4, 1839.*

[See Inclosure 3 in No. 7, page 63.]

Inclosure 28 in No. 30.

*The Governor of Maine to the President of the United States.*

Sir,

[Executive Department,  
*Augusta, February 27, 1839.*

I HAVE the honour, herewith, to inclose Document No. 31 of the House of Representatives, relating to trespassers upon the public lands, it containing some information upon this subject not heretofore communicated to your Excellency.

With high respect, I am your Excellency's most obedient servant,

(Signed) JOHN FAIRFIELD,  
*Governor of Maine.*

Inclosure 29 in No. 30.

*Message of Governor Fairfield to the Senate and House of Representatives.*

*Council Chamber, January 23, 1839.*

[See Inclosure 7 in No. 5, p. 32.]



Inclosure 30 in No. 30.

*Mr. Hamlin to the Governor and Council.*

STATE OF MAINE.

Gentlemen,

*Land Office, Augusta, January 22, 1839.*

I DEEM it my duty to lay before you the accompanying report of George W. Buckmore, in relation to depredations upon the Aroostook and St. John's Rivers; also, a copy of the instructions given him by the Land Agent of Maine and Massachusetts.

It will be seen from his report, that extraordinary depredations are being committed on the public lands situated on those rivers, and that energetic measures will be required to arrest them.

As to the trespassers upon the Aroostook, I am confident nothing short of an armed force, of at least fifty men, can effectually break them up. When the wholesale depredations on the Little Madawaska are stopped, the minor trespassers on the other streams, tributary to the Aroostook, will cease of course.

In an affair of this magnitude, the land agent does not feel himself authorized to proceed without some particular directions from the Governor and Council, or from the Legislature now in session.

(Signed)

ELIJAH L. HAMLIN, *Land Agent.*

Inclosure 31 in No. 30.

*Mr. Hamlin and Mr. Coffin to Mr. Buckmore.*

STATE OF MAINE.

Sir,

*Land Office, Bangor, December 14, 1838.*

YOU are hereby authorized and empowered to proceed to the Aroostook River and see that no trespassing is committed on the townships belonging to Maine and Massachusetts on that river the ensuing winter. You are also authorized, if it becomes necessary, to take off the teams and supplies of those found trespassing, and sell the same at auction, according to the provisions of an Act approved March 28, 1831.

If there should be any communication open with Fish River, you will make an examination there, and see that no trespasses are committed.

Should you meet with any resistance, or any thing extraordinary takes place, you will give immediate information to this office, where you will also make a return of your doings after the abovenamed service is completed.

(Signed)

ELIJAH L. HAMLIN, *Land Agent of Maine.*

GEO. W. COFFIN, *Land Agent of Mass.*

By E. L. HAMLIN.

Inclosure 32 in No. 30.

*Mr. Buckmore to Mr. Hamlin.*

Sir,

*Augusta, January 22, 1839.*

AGREEABLY to your instructions, dated December 14th, requesting me to look after trespassers on the Aroostook and St. John's Rivers, I immediately left Ellsworth and proceeded to the Aroostook River; and after stopping there a few days, I left township No. 11, for Fish River, through the Madawaska settlement, and returned to township No. 11, after an absence of ten days. Finding the amount of depredations to be much larger than was anticipated, and being unable to arrest the trespassers or to take off their teams and supplies, I concluded to return, and herewith lay before you the following report of my doings and examinations, and await such further instructions as you may see fit to give.

A short distance above the Grand Falls, I fell in company with two men, who were going up Grand River, with some others, to make timber for a Mr. Ketchum. I learned from these persons that there were forty or fifty men at work making timber on this river. I also learned that there were from twenty to thirty persons cutting timber on Green River, all well supplied with teams and provisions.

At the Madawaska Settlement, I learned from the inhabitants that the Governor of New Brunswick had given permission to each settler to cut 100 pine logs on his lot, and most of the inhabitants were engaged in cutting logs, under this license, for Sir John Caldwell's mills at the Grand Falls.

During my stop at the Madawaska Settlement, I was called upon by Francis Rice and Leonard R. Coombs, Esquires, two of the magistrates living at Madawaska, to learn my business on the St. John's River, which I freely communicated. They then requested a copy of my instructions, which I furnished them. They said they were authorized by the Governor to arrest all persons attempting to exercise jurisdiction, on the part of the American Government, in the Madawaska Settlement, and that they should forward a copy of my instructions to the Governor at Frederickton.

I was informed here that several crews were at work cutting timber on the Madawaska and St. Francis Rivers. I also learned that there were large parties of trespassers on the Restigouche River, some of whom had come through to the Madawaska Settlement to purchase hay. From this place I proceeded to the mouth of the Fish River, which I ascended about fourteen miles, and found within that distance the following trespassers: A Mr. Whalen, with a crew of eight men and a team of six oxen, supplied by Francis Rice, Esq., before named; C. Fernandee and S. Herbert, with a crew of six men and one team; a crew of fourteen men and one team, supplied by Mr. Carle, an inhabitant of Madawaska; Joseph Dominkee, with a crew of nine men and a team, supplied by Mr. Brunsieu of Canada; Mr. Woobert and R. Martin, with a crew of fourteen men, two pair of horses, and four oxen; L. Nado, with a crew of seven men, with one team of horses and one team of oxen, and several small crews, making altogether, as near as I could calculate, ten pair of horses, sixteen yoke of oxen, and from fifty to seventy-five men.

More teams and men were expected in daily. Some of these crews had been at work here ever since last summer. The most of these trespassers were located, as near as I could judge, on township No. 16, in the 7th range belonging to Maine. The following crews were at work on the main St. John's, between the St. Francis and Madawaska Rivers. Two crews under L. R. Coombs, Esq., beforementioned—one crew under Messrs. Wheelock and Caton, supplied by Sir John Caldwell—one crew under S. Hubert—one crew under William Gardner—one crew under Mr. Hunnewell—one crew under Messrs. Makay and Decenado—one crew under Mr. Canada—and one crew under D. Dagle, making nine crews in all. From the best information I could obtain from the inhabitants, it was calculated that these trespassers would cut on the St. John's and its tributaries above the Grand Falls, this season, including the logs, at least seventy-five thousand tons, about one-third of which would be cut on Fish River.

On the Aroostook River, the trespassers upon whom I served writs last fall, above Beaver Brook, in company with yourself, have not returned, and there is no trespassing by the Provincials above that stream. The crews on Beaver Brook supplied by Peter Ball, have returned. I saw Mr. Ball, and he informed me that as there was trespassing below, he should not stop himself, and that he should resist any attempt to take away his teams.

The crew, which began to cut on Salmon stream early last fall, are still at work, and now say they do not intend to quit, but mean to defend themselves and resist all authority from this State.

On township letter H, belonging to Maine, I found Mr. Johnson, with a crew of ten men, six oxen, and one pair of horses. They refused to quit, and said they should continue to cut the timber in spite of both Governments, and used much threatening language. I stopped one night among the settlers at the mouth of the Little Madawaska, and from the best information I could obtain, there are about seventy-five persons trespassing on this river, with twenty yoke of oxen and ten pair of horses, well supplied with provisions from the Province.

I met several teams on their way up, and noticed that the road leading up the Little Madawaska was trodden hard, and indicated a large amount of travel.



From what I could learn, the most of these trespassers are violent and lawless men, and have given out that they mean to resist any officer who shall attempt to take themselves or their teams.

At the Aroostook Falls I found two crews of about fifteen men and six yoke of oxen, cutting timber within the American line, and hauling it into the river below the falls. From the best information I could obtain, I have no doubt, that from fifteen to twenty thousand tons of timber will be taken off the townships on the Little Madawaska River this winter.

(Signed) GEORGE W. BUCKMORE.

Inclosure 33 in No. 30

*Resolve of the Legislature of Maine, January 23.*

[See Inclosure 8 in No. 5, p. 33.]

Inclosure 34 in No. 30.

*Message of Governor, Fairfield to the House of Representatives.*

[See Inclosure 9 in No. 5, p. 34.]

Inclosure 35 in No. 30.

*Resolve of the Legislature of Maine, February 16.*

[See Inclosure 10 in No. 5, p. 35.]

Inclosure 36 in No. 30.

*Instructions to Mr. Rogers.*

Sir,

Augusta, February 15, 1839.

IN pursuance of my object disclosed to you this day, you having consented to lend your personal services in effecting that object, I wish you to proceed forthwith to Frederickton, N. B., and have a conference with his Excellency Sir John Harvey, upon the extraordinary events that have just occurred in relation to the seizure and abduction of the Hon. Rufus McIntire and several others, while engaged in the execution of certain duties under a resolve of the Legislature of this State, adopted the 24th of January last. You will communicate to Governor Harvey all the facts in the case, so far as they have come to your knowledge, and ascertain from him whether the high-handed and outrageous proceedings alluded to have been authorized, sanctioned, or in any way countenanced by the Provincial Government; and, if such should be the fact, to demand the instant release of our citizens, and in case of refusal, to return forthwith to this place. If otherwise, as is supposed to be the fact, and the seizure and abduction have been made by a band of lawless and desperate men, Governor Harvey will undoubtedly furnish you with every facility in his power for effecting the release and safe return of the persons alluded to.

As it is the determination of this Government, so far as it may be able, to break up and put an end to the trespassing upon the public lands, and as in effecting that object, it may be necessary to destroy the timber already cut, you will endeavour to ascertain the views and intentions of Governor Harvey in relation to it—and whether any resistance on his part to such a movement is to be apprehended by us.

You will also endeavour to ascertain the facts in relation to the persons engaged in the pillage of our timber, and the still more daring act of seizing our citizens, and transporting them out of the State. Learn, if you can, who they are—where from—how numerous they are—what are their designs—and whether they receive any countenance from British subjects living near the line.

Having fully expressed my views to you personally, I do not deem it necessary to be more particular in making this communication.

With full confidence that you will do everything in the premises which the honour and interest of your State require, I subscribe myself, &c.,

(Signed) JOHN FAIRFIELD,  
Governor of Maine.

Inclosure 37 in No. 30.

*Governor Fairfield to Sir John Harvey.*

Sir,

*Augusta, February 15, 1839.*

THIS communication will be handed to you by the Hon. Jonathan P. Rogers, a distinguished citizen of this State, whom I have requested to proceed to Frederickton, for the purpose of conferring with your Excellency upon a most extraordinary and high-handed proceeding, on the part of certain trespassers upon the public lands, in seizing and transporting beyond the bounds of the State, the Hon. Rufus McIntire, land agent, and several other persons while aiding him in the regular and legal execution of the duties of his office—and for the purpose of of procuring their release. Mr. Rogers will inform your Excellency of the facts as they have been reported here, and confer with you generally upon the subject.

I cannot doubt that your Excellency will furnish Mr. Rogers with the information in your possession, and will afford him every facility in accomplishing the object of his mission.

I have, &c.,  
(Signed) JOHN FAIRFIELD,  
Governor of Maine.

Inclosure 38 in No. 30.

*Appointment of Mr. Jarvis.*

Sir,

*Augusta, February 15, 1839.*

AN extraordinary state of affairs upon what is called the disputed territory, has induced me to invite your services in the cause of the State. By the inclosed resolve, you will perceive that the State has come to the determination of breaking up and putting an end to the trespassing upon the public lands. Under this resolve, Mr. McIntire, the land agent, repaired to the scene of operations, with about 200 chosen men. The trespassers had combined, and intended to resist every attempt to disperse them—but finding that our men had supplied themselves with artillery, they thought it prudent to leave the ground, though 300 in number. After this, however, Mr. McIntire with four others, being unfortunately separated from the main body, were seized by a detachment from the trespassers, and transported beyond the bounds of the State. Our men are now on No. 10, upon the Aroostook, fortified, where they will remain until they receive a reinforcement, and then proceed to the further execution of the resolve alluded to.

Under these circumstances, it has become necessary for me to appoint some one to take the place of Mr. McIntire, and to lead on the expedition. I know of no gentleman better qualified for the service than yourself, and trust that you will find no obstacle in the way of your acceptance of the appointment.

Mr. Strickland, Sheriff of Penobscot, is instructed to procure forthwith, from 200 to 300 additional men. He has also been supplied with the necessary funds. I hope you will immediately set out for Bangor, where you can confer with Major Strickland, and repair at the earliest possible moment, with the additional force, to the scene of the trouble, where you will proceed to execute the resolve of the 24th of January.

I am, &c.,  
(Signed) JOHN FAIRFIELD,  
Governor of Maine



Inclosure 39 in No. 30.

*Message of Governor Fairfield to the Senate and House of Representatives.*

[See Inclosure 11 in No. 5, p. 35.]

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Inclosure 40 in No. 30.

*Sir John Harvey to Governor Fairfield.*

*Government House, Frederickton,  
New Brunswick, February 13, 1839.*

[See Inclosure 14 in No. 5, p. 38.]

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Inclosure 41 in No. 30.

*Proclamation by Major-General Sir John Harvey.*

*Fredericton, February 13, 1839.*

[See Inclosure 2 in No. 4, p. 19.]

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Inclosure 42 in No. 30.

*Resolves of the Legislature of Maine, February 20 and 22.*

[See Inclosure 12 in No. 5, p. 37.]

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Inclosure 43 in No. 30.

*House of Representatives,  
February 18, 1839.*

ON motion by Mr. Vose of Augusta,

*Ordered,* That the Governor be requested to communicate forthwith to the Executive of Massachusetts, any information in his possession, relating to trespasses committed upon the disputed territory—and to request her aid in the measures taken by this State.

Sent up for concurrence.

CHARLES WATERHOUSE,  
Clerk.

*In Senate, February 19, 1839.*

Read and concurred.

WILLIAM TRAFTON,  
Secretary.

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Inclosure 44 in No. 30.

*House of Representatives,  
February 20, 1839.*

ON motion by Mr. Allen, of Alfred,

*Ordered,* That the Governor be requested, if he shall deem it expedient, to communicate to this House, such further correspondence as he may have had with Sir John Harvey, upon the subject of the north-eastern boundary.

Read and passed.

CHARLES WATERHOUSE,  
Clerk.

Inclosure 45 in No. 30.

*Message of Governor Fairfield to the House of Representatives.*

AGREEABLY to your request of this day, I herewith lay before you my reply to the letter of Sir John Harvey, Lieutenant-Governor of the Province of New Brunswick, under date of the 13th instant, his letter having been heretofore communicated.

(Signed) JOHN FAIRFIELD

*Council Chamber February 20, 1839.*

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Inclosure 46 in No. 30.

*Governor Fairfield to Sir John Harvey.*

*Executive Department,  
Augusta, February 19, 1839.*

[See Inclosure 16 in No. 5, p. 39.]

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Inclosure 47 in No. 30.

*Message of Governor Fairfield to the House of Representatives.*

*Council Chamber, February 21, 1839.*

[See Inclosure 22 in No. 5, p. 42.]

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Inclosure 48 in No. 30.

*Sir John Harvey to Governor Fairfield.*

*Government House,  
Frederickton, N. B., February 18, 1839.*

[See Inclosure 23 in No. 5, p. 43.]

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Inclosure 49 in No. 30.

*Sir John Harvey to Messrs. McIntire, Cushman, Bartlett, and Webster.*

*Frederickton, New Brunswick,  
February 18, 1839.*

[See Inclosure 24 in No. 5, p. 44.]

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Inclosure 50 in No. 30.

*Governor Fairfield to Sir John Harvey.*

*Executive Department,  
Augusta, February 21, 1839.*

[See Inclosure 25 in No. 5, p. 44.]

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Inclosure 51 in No. 30.

*Mr. Street to Mr. Jarvis.*

*At the Mouth of the Aroostook, River St. John's,  
Province of New Brunswick, February 17, 1839.*

[See Inclosure 26 in No. 5, p. 44.]

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Inclosure 52 in No. 30.

*Mr. Jarvis to Mr. Street.*

*Confluence of the St. Croix Stream, Aroostook River,  
Township No. 10, State of Maine, February 19, 1839.*

[See Inclosure 27 in No. 5, p. 45.]

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Inclosure 53 in No. 30.

*Governor Fairfield to President Van Buren.*

*Executive Department, Augusta, February 18, 1839.*

[See Inclosure 6 in No. 5, p. 31.]

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Inclosure 54 in No. 30.

*Governor Fairfield to President Van Buren.*

*Executive Department,  
Augusta, February 19, 1839.*

[See Inclosure 15 in No. 5, p. 39.]

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Inclosure 55 in No. 30.

*Governor Fairfield to President Van Buren.*

*Executive Department,  
Augusta, February 22, 1839.*

[See Inclosure 31 in No. 5, p. 51.]

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Inclosure 56 in No. 30.

*The Clerk of the House of Representatives to the President of the United States.*

Sir,

*Augusta, Me., March 23, 1839.*

BY the direction of the House of Representatives of the State of Maine,  
I have the honour, herewith, to transmit a copy of a resolution yesterday  
unanimously adopted by that body.

I have, &c.,  
(Signed) GEORGE ROBINSON,  
Clerk, House Representatives.

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## Inclosure 57 in No. 30.

## STATE OF MAINE.

*Resolve relating to the North-Eastern Boundary.*

*Resolved, by the House of Representatives, That the unquestionable right of this State to the whole of the territory embraced within her limits, as described by the Definite Treaty of Peace of Seventeen Hundred and Eighty-three, ought never to have been submitted to arbitration: and, in the opinion of this House, to consent to another arbitration would be an abandonment of the rights and interests of Maine.*

*House of Representatives, March 22, 1839.*

Read and passed:

(Signed) H. HAMLIN,  
Speaker.

Test: GEO. ROBINSON, Clerk.

## Inclosure 58 in No. 30.

*The Secretary of State of the United States to the Governor of Maine.*

Sir,

*Department of State,  
Washington, April 2, 1839.*

YOUR letter of the 23d ultimo, communicating to the President a resolve of the House of Representatives of Maine, relating to the north-eastern boundary, passed on the preceding day, has been referred to this department, with instructions that I should state to you that the resolve referred to will be respectfully considered by the President.

I am, &c.,  
(Signed) JOHN FORSYTH.

## Inclosure 59 in No. 30.

*The Secretary of State of the United States to the Governor of Maine.*

Sir,

*Department of State,  
Washington, August 4, 1839.*

I HAVE the honour to transmit to you, by the directions of the President, a copy of a communication from Mr. Fox, of the 30th of July, and of the extract from his instructions from the British Government, which he sent with it.

I am, &c.,  
(Signed) JOHN FORSYTH.

## Inclosure 60 in No. 30.

*The Acting Secretary of State to the Governor of Maine.*

Sir,

*Department of State,  
Washington, November 6, 1839.*

THE British Minister, in a note addressed on the 2nd instant, to this department, states that information, which had reached his Government in England, and more recent intelligence received by himself from the authorities of the Province of New Brunswick, had made it his duty to call the attention of the Government of the United States, to the alleged facts that—Firstly. The armed posse stationed by the State of Maine, for the protection of the public property in the disputed territory, had extended



its operation, and its armed occupation of the country along the whole way from the valley of the Restook to the mouth of Fish River, into the valley of St. John, and thus into a portion of the Madawaska settlements.

Secondly. That the establishments formed by persons composing the armed parties, on the banks both of the Restook and the Fish River, had assumed an aspect and character decidedly military, and more representing a permanent national possession of the country, than could be required in the civil posse of a land agent, temporarily occupying it for the sole purpose of preventing trespasses. That those establishments were fortified with entrenchments and cannon, and garrisoned by a number of armed men, far greater than the occasion would warrant.

Thirdly. That a permanent state road is being constructed, leading into the valley of the Restook, and from thence on the south side of the St. John's, to the Fish River; the object of which is to connect those portions of the disputed territory with the towns of Augusta and Bangor, and other acknowledged parts of the State of Maine.

Fourthly. That, moreover, land surveyors, acting under the authority of the State, are employed in marking out lots and townships within the same portion of the disputed territory; and that sales of lands are being made, with deeds regularly drawn under the authority of Maine.

The British Minister protesting in the name of his Government, against acts of encroachment on the part of the people of Maine, as being at variance with the agreements entered into in the month of February last, first between him and the Secretary of State at Washington, and subsequently, by your Excellency, the Governor of New Brunswick, and Major-General Scott, for the purpose of adverting the danger of local collision on the frontier, pending the final settlement of the boundary question between the two Governments, thinks that the establishment, in the meantime, of the new interests, and the growing up, as it were, of new proprietary claims upon the lands yet in dispute, which are likely to be the result of the acts referred to, may end by embarrassing the action of both Governments.

In support of this opinion, Mr. Fox states that a similar reasoning was held on the part of the United States, when, in the year 1837, this Government remonstrated against an alleged act, or design rather, of encroachment of a less objectionable character than the operations to which he refers, namely, the survey of a projected line of railroad from Quebec to St. Andrews, passing through a part of the disputed territory, and he adds that, for the preservation of peace between the people on both sides, and of good will between the two nations, such acts as those complained of, ought to be desisted from, and the existing arrangements observed in good faith.

The President, to whom Mr. Fox's note has been communicated, has directed me to express to you his anxious desire, that no occasion should be permitted to call in question, the faithful observance, by the Governments of the United States and Maine, of the arrangements referred to, a sentiment in which he is confident your Excellency will freely concur, and to request that you will transmit to this department, such information as may be in possession of the Government of Maine, in relation to the acts referred to, in order that an appropriate answer may soon be returned to Mr. Fox's communication.

I have, &c.,  
(Signed) A. VAIL,  
Acting Secretary.

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Inclosure 61 in No. 30.

*The Governor of Maine to the Acting Secretary of State.*

Sir,

*Executive Department,  
Saco, November 21, 1839.*

I HAVE the honour to acknowledge the receipt of your communication of the 6th instant, reciting certain complaints that have been made by

the British Government, through its Minister, Mr. Fox, of the authorities of this State for certain alleged proceedings on the part of the latter, in relation to the "disputed territory;" and I lose no time in complying with the request "to transmit such information as may be in the possession of the Government of Maine in relation to the acts referred to, in order that an appropriate answer may soon be returned to Mr. Fox's communication."

The first complaint is, "that the armed posse stationed by the State of Maine for the protection of the public property in the disputed territory, advancing beyond the stipulated limits, has extended its occupation of the country along the whole way from the valley of the Restook to the mouth of Fish River, into the valley of the St. John's, and thus into a portion of the Madawaska settlements."

This complaint is probably founded upon the following facts.—Early last spring, the land agent of the State sent a small force, consisting of some twenty-five men, to Fish River, to disperse a band of trespassers understood to be operating at that place. The enterprise was successful. Their camps were broken up, some of the trespassers driven off, and a few with their teams, were brought out to the settlement on the Aroostook, though subsequently released. The land agent deeming his work but half accomplished, again sent a small force, of about the same number of men as composed the first party, to the mouth of Fish River, to extend a boom across it to prevent the timber which had been cut by the trespassers being driven out into the St. John's, and to prevent further depredations by cutting. That force has remained there until the present time; and has, I believe, been signally successful in accomplishing the objects of the expedition.

This proceeding violates no stipulation ever entered into by the authorities of this State. In no proper sense can the Madawaska settlements be said to include the territory as far west as Fish River, upon either side of the St. John's, it being a distance of some twenty-five miles above it, and the two not being connected by continuous occupations or settlements. But supposing the Fish River territory to be a part of the Madawaska settlements, even then, I maintain there has been no infringement of the stipulations on the part of this State, referred to by Mr. Fox. In that arrangement, negotiated through the agency of General Scott, the right was not relinquished, on the part of this State, of going anywhere upon the disputed territory with an armed posse for the purpose of protecting the timber then recently cut and to prevent further depredations; but such right was expressly reserved, or rather the intention of exercising it was distinctly avowed.

So far as I am informed, the armed posse have confined their operations to the objects before stated, and have given no just cause of complaint, unless the prohibiting Colonel McLaughlan, the Provincial Land Agent, from driving timber down the St. John's into the province of New Brunswick, constitutes such cause. And, in regard to this, I must be permitted to say, that the authorities of Maine can see no reason for making a distinction between persons attempting to drive our timber from the State into a foreign jurisdiction, whatever may be the pretence set up.

Secondly, it is alleged "that the establishments formed by persons composing the armed parties on the banks, both of the Restook and the Fish River, had assumed an aspect and character more decidedly military and more resembling a permanent national possession of the country than could be required in the civil posse of a land agent temporarily occupying it for the sole purpose of preventing trespasses. That these establishments were fortified with entrenchments and cannon, and garrisoned by a number of armed men far greater than the occasion would warrant."

The party at Fish River as before stated, is composed of about twenty-five men,—not militia or soldiers, but hired labourers. A boom has by them been thrown across the river to stop the timber in its passage down. They have erected a blockhouse near the boom, and are armed with muskets. If this assumes "an aspect and character," in the eyes of our provincial neighbours "decidedly military," we hope it is not formidable



enough to create any alarm. But whether it is a force more than sufficient to protect the public property of the State from numerous bands of lawless men, grown desperate by being deprived of their accustomed plunder, and over whom their own government seems heretofore to have had but little controul, is a question which this State must be permitted to decide for itself. In such a case it would be degrading to consent that limits should be prescribed by any power whatever. If the right to protect our territory from invasion, and the public property from plunder, be clear and undeniable, no less so is the choice of means for carrying that right into effect.

Upon the Aroostook a large number of men have been employed. A boom has been extended across the river—a fortification of hewn timber erected near it—and a blockhouse and a few other more temporary buildings put up. The men stationed at what is called the Fort, say twenty-five or thirty in number, are armed with muskets, and I believe that they have also two small pieces of artillery. The remainder, say 100 to 125, have been engaged for the most part in opening roads for summer as well as winter communication, and preparing facilities for supplying the posse. How far these proceedings furnish ground for the complaints of the British Government, you will judge. That any preparations short of them would be insufficient to protect the public property, to me seems to be clear. At all events, the complaint at the extent of this force, was hardly to have been expected from the British Government just at this moment, when a few days only have elapsed since some fifty of its own subjects, bearing the Queen's arms, and otherwise suitably equipped, headed by a veteran militia captain, made an assault in the dead of night upon that very force which is now described as "greater than the occasion would warrant."

No better justification is needed for the course which has been pursued by Maine, especially in regard to the force employed, than a reference to this case. Nor is the force of the circumstance diminished by the fact, that this attack was repulsed by the firing of but one gun; for a disposition is manifested which may not always exhibit itself in so harmless a manner. Again, the complaint at our "establishments upon the disputed territory fortified with entrenchments and cannon," would seem to come with but little show of consistency from the British Government, when it has just completed most extensive and permanent barracks upon the same territory, north of the St. John's, and is in the habit of transporting troops and munitions of war over it at their pleasure.

The third allegation is, "that a permanent state road is being constructed, leading into the valley of the Restook, and from thence, on the south side of the St. John's to the Fish River, the object of which is to connect those portions of the disputed territory with the towns of Augusta and Bangor, and other acknowledged parts of the State of Maine."

That a road commencing near Mattawamkeag point in the county of Penobscot, extending to the Aroostook River, and thence on to the mouth of Fish River, upon the St. John's, is in process of construction, and is even now passable the whole way with some vehicles, is certainly true. But it is not perceived why, at this particular time, it should be regarded as a cause of complaint. This is no new thing. An appropriation for this road was made by the Legislature of this State as early as 1826; from which time it has steadily progressed, and in another year, probably, will be nearly if not quite completed. To say nothing of other advantages anticipated from it, it is manifest that it will afford great facilities for preventing trespasses upon the public lands; and indeed, I may say, that trespassing upon the streams emptying high up upon the St. John's cannot be prevented without such a road. This, therefore, is no new project, got up in violation of any stipulation or understanding, to which this State has in any way been a party, or for the purpose of gaining an additional extent of possession; but is the exercise of a lawful right over that portion of the territory to which we have not only the legal title, but over which we have ever had possession and jurisdiction.

But again, may I not inquire with what propriety and consistency this complaint is made on the part of Great Britain, when she has

herself constructed a permanent railroad over a large part of the territory north of the St. John's, which, it is understood, was very thoroughly repaired the present season, and over which her subjects are constantly passing.

The last allegation is, "that land surveyors, acting under the authority of the State, are employed in marking out lots and townships within the same portion of the disputed territory, and that sales of land are being made with deeds regularly drawn under the authority of Maine."

That Maine is not managing, in the particulars mentioned, these lands upon the Aroostook, and those south of the St. John's, in the same manner that she has been accustomed to since her separation from Massachusetts, and as that State managed them prior to that period, is true. For the last thirty years we have been occasionally surveying and lotting these lands, granting them for literary, charitable, and religious purposes, and selling in small lots to actual settlers. And has this Boundary Question so far advanced, it may be asked, that we cannot now do, with a remonstrance on the part of the British Government, what we have been so long in the habit of doing? Has the almost interminable negotiations—all the efforts that have been put forth—all the events that have occurred,—especially the exciting events of the last year,—but served to weaken our title, diminish our rights, and curtail our privileges? Sure, I am, that Maine will not readily adopt such a view, or quietly yield to its consequences. She has been indulging the hope that some progress towards an acknowledgment of her rights, and the acquisition of her property, had been made, and I am well persuaded she has no disposition, at the present time, to make any retrograde movement.

In compliance with your request, I have now communicated the facts upon which the complaints of the British Government are supposed to be founded. In doing it, and in the accompanying remarks, I have had no intention or desire of producing irritation, or adding, in any degree, to the excitement already existing. This subject is far too momentous, and too nearly involves the peace of the countries interested, to justify any remarks founded in passion or feeling. But it is due to the State, whose organ, upon this occasion, I am, as well as to the whole country, to speak plainly, and without disguise. And under this solemn impression, I must say, that Maine, in my opinion, has done nothing which she was not fully justified in doing, and nothing which she will not be ready to defend with her best powers. And further, that though she has not yet taken military possession of the disputed territory, a continued disposition, on the part of the British Government, to delay a settlement of the Boundary Question, will not fail, in my opinion, to induce such a step, whatever may be the consequences, should she not be relieved from that responsibility by the action of the General Government.

With the most earnest desire for a just, peaceful, and speedy settlement of the question, I have, &c.

(Signed)

JOHN FAIRFIELD,  
*Governor of Maine.*

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Inclosure 62 in No. 30.

*The Governor of Maine to the President of the United States.*

*State of Maine, Executive Department,  
Augusta, December 23, 1839.*

Sir,

IT having been reported to me, that a large number of British troops had been stationed at Temiscouata Lake, in the disputed territory, and seeing extracts from the provincial papers confirmatory of these reports, I deemed it proper to apply directly to the Lieutenant-Governor of the Province of New Brunswick, which I did by letter of the 12th instant, to ascertain whether these reports were well founded or not. His answer, under date of December 19th, I received yesterday, while on my way to this place. My letter and the reply, are both herewith inclosed. It will



be perceived that two companies of British troops have actually been marched into the disputed territory, and stationed at the Temiscouata Lake, where, it is well known, extensive barracks had been previously erected. This is clearly a violation of the spirit of the agreement entered into between the Lieutenant-Governor of New Brunswick and myself, in March last, though the orders have been issued by the Governor of Lower Canada. I submit, also, whether the contingency contemplated by the Act of Congress of March 3, 1839, has not occurred: whether the facts do not clearly show an invasion of the State of Maine, which the Executive Government of the United States, under the directions of the act aforesaid, as well as under the obligations of the Constitution, is bound to repel.

I may add, that I am well informed that the British Government is also erecting barracks upon both sides of the St. John's, near the mouth of the Madawaska River, and that troops are concentrating at Grand Falls. Under all these circumstances, I deem it to be my duty to call upon the Government of the United States for that protection of this State from invasion, guaranteed to her in the constitution.

With the highest respect, I am, &c.

(Signed)

JOHN FAIRFIELD,  
*Governor of Maine.*

Inclosure 63 in No. 30.

*The Governor of Maine to Sir John Harvey.*

*Executive Department,  
Saco, December 12, 1839.*

[See Inclosure 5 in No. 28, p. 107.]

Inclosure 64 in No. 30.

*Sir John Harvey to the Governor of Maine.*

*Government House,  
Fredericton, N. B., December 19, 1839.*

[See Inclosure 6 in No. 28, p. 108.]

Inclosure 65 in No. 30.

*The Secretary of State to the Governor of Maine.*

*Department of State,  
Washington, January 2, 1840.*

YOUR letter of the 23rd ultimo to the President, has, with its inclosures, been received and referred to this department. The information therein contained, respecting the alleged occupation by British troops of a portion of the disputed territory, had before reached him from another quarter, and, by his direction, had immediately been made the subject of representations from this department to the British Minister, accompanied by a request that he would communicate such information in relation to the subject as he might have in his possession, or could obtain from the British colonial authorities. Presuming that the desired information is to be procured from the last mentioned source, sufficient time has not yet been afforded for that purpose; but, I am instructed by the President to state that so soon as an answer is received from the British Minister, its purport shall be communicated to your Excellency.

I have, &c.

(Signed)

JOHN FORSYTH.

Inclosure 66 in No. 30.

*Mr. Fox to the Acting Secretary of State.*

Sir,

*Washington, July 30, 1839.*

I HAVE the honour to acquaint you, for the information of the Government of the United States, that Her Majesty's Government has appointed Colonel Mudge, of the Royal Engineers, and Mr Featherstonhaugh, accompanied by several assistants, to proceed to the territory in dispute between Great Britain and the United States; on the north-eastern frontier of the Republic, for the purpose of making, during the present summer, and before the negotiation which is pending for the establishment of a new joint Commission of Exploration, can, as that negotiation now stands, be terminated, a topographical survey of various parts of the said disputed territory, for the use and information of Her Majesty's Government. Colonel Mudge and Mr. Featherstonhaugh arrived at New York on the 28th instant, and will proceed forthwith to the performance of the duty which has been assigned to them. I have the honour herewith to inclose to you the extract of a despatch from Her Majesty's Secretary of State for Foreign Affairs, directing me to make the present communication to the Government of the United States.

I have, &c.,  
(Signed) H. S. FOX.

Inclosure 67 in No. 30.

*Viscount Palmerston to Mr. Fox.*

*Foreign Office, July 9, 1839.*

[See Inclosure 2 in No. 20, page 88.]

Inclosure 68 in No. 30.

*The Acting Secretary of State to Mr. Fox.*

*Washington, August 19, 1839.*

[See Inclosure in No. 25, page 96.]

Inclosure 69 in No. 30.

*Mr. Fox to Mr. Forsyth.*

*Washington, November 2, 1839.*

[See Inclosure 1 in No. 27, page 98.]

Inclosure 70 in No. 30.

*Mr. Forsyth to Mr. Fox.*

*Washington, December 24, 1839.*

See Inclosure 3 in No. 28, page 105.]



Inclosure 71 in No. 30.

*Mr. Fox to Mr. Forsyth.*

*Washington, January 12, 1840.*

[See Inclosure 1 in No. 30, p. 113.]

Inclosure 72 in No. 30.

*Mr. Forsyth to Mr. Fox.*

*Department of State,  
Washington, January 16, 1840.*

[See Inclosure 2 in No. 30, page 114.]

Inclosure 73 in No. 30.

*Mr. Poinsett to the President of the United States.*

Sir,

*War Department, January 22, 1840.*

IN reply to that portion of the resolution of the Senate, referred by your direction to this department, by the Secretary of State, which requests you "to communicate to the Senate, so far as may not be incompatible with the public interest, whether any, and if any, what measures have been taken under the Act of Congress of March, 1839, or otherwise, to cause the removal or expulsion of the British troops, which have taken possession of a portion of the territory of Maine, claimed by Great Britain, and especially whether, since the last Session of Congress, any military posts have been established in Maine, or any other military measures adopted, preparatory to a just vindication of the honor and rights of the nation and of Maine, as connected with the persevering claim made by Great Britain, to a portion of the territory of that State,"—I have the honor to state, that the circumstance of a portion of the territory of Maine claimed by Great Britain, having been occupied by British troops, was recently communicated to the Government, and having been made the subject of remonstrance, and become a matter of discussion between the two Governments, no measures of a character referred to by the resolution, have been taken, either under the Act of Congress of March, 1839, or otherwise.

A careful military reconnaissance of the undisputed boundary of the State of Maine, was made in 1838, and the result submitted to the Senate during the last Session of Congress; but as no appropriation was made for the erection of fortifications on the sites selected for that purpose, none were commenced; and as is fully set forth in your last annual message to Congress, it did not appear, that the contingency contemplated by the Act alluded to, had occurred, no military measures whatever were deemed necessary, or were adopted.

Very respectfully, &c.,

(Signed)

J. R. POINSETT.

Inclosure 74 in No. 30.

*Message from the President of the United States, communicating additional correspondence in relation to the adjustment of the North-Eastern Boundary, and the occupation of the disputed Territory.*

To the Senate of the United States:

*Washington, January 29, 1840.*

I HEREWITH transmit to the Senate, with reference to their resolutions of the 17th instant, copies of two official notes which have passed, subsequently to the date of my message of the 22nd, between the Secretary of State and the British Minister at Washington, containing additional information in answer to the resolutions referred to.

(Signed)

M. VAN BUREN.

Inclosure 75 in No. 30.

*Mr. Fox to Mr. Forsyth.*

*Washington, January, 26, 1840.*

[See Inclosure 3 in No. 30, p. 116.]

Inclosure 76 in No. 30.

*Mr. Forsyth to Mr. Fox.*

*Department of State,  
Washington January 28, 1840.*

[See Inclosure 4 in No. 30, page 117.]

Inclosure 77 in No. 30.

*Message from the President of the United States to the Senate.*

*Washington, March 9, 1840.*

IN addition to information already communicated, in compliance with the resolutions of the Senate of the 17th January last, I think it proper to transmit to the Senate copies of two letters, with inclosures, since received from the Governor of Maine, and of a correspondence relative thereto between the Secretary of State and the British Minister.

(Signed) M. VAN BUREN.

Inclosure 78 in No. 30.

*The Governor of Maine to the President of the United States.*

*Executive Department,  
Augusta, (Me.) February 15, 1840.*

Sir,

A COMMUNICATION from Mr. Fox, the British Minister, to Mr. Forsyth, Secretary of State, under date of January 26th, contains the following statement:

"It appears from accurate information now in possession of the Under-signed, that the Governor of Maine, and, through him the President and General Government of the United States, have been misinformed as to the facts. In the first place, no reinforcement has been marched to the British post at the Lake Temiscouata; the only change occurring there has been the relief of a detachment of Her Majesty's 24th Regiment, by a detachment of equal force of the 11th Regiment; this force of one company being now stationed at the Temiscouata post, as it always has been, for the necessary purpose of protecting the stores and accommodations provided for the use of Her Majesty's troops, who may be required, as heretofore, to march by that route to and from the provinces of Canada and New Brunswick. In the second place, it is not true that the British authorities either have built, or are building, barracks on both sides of the St. John's River, or at the mouth of the Madawaska River; no new barracks have, in fact, been built any where."

This statement has been read by the citizens of this State with the most profound astonishment. And, however high may be the source from which it emanates, I must be permitted to say, in the language of that high functionary, that it is not true; though, in justice to him, I should add, that he has been misinformed. Though this State, in the vindication of her rights and maintenance of her interests, relative to her territorial boundary, from past experience, had no reason to expect any material admissions of the truth on the part of the British authorities, she was not prepared to meet such a positive and unqualified denial of



facts as the foregoing exhibits, especially of facts so easily susceptible of proof. The accuracy of the information alleged to be in the possession of the Minister is only equalled by the justice of the pretensions heretofore set up in regard to title.

But, not to be bandying assertions where proof is abundant, I deem it my duty to transmit to your Excellency the depositions of a number of gentlemen, citizens of this State, of great respectability, and whose statements are entitled to the most implicit confidence.

These depositions abundantly prove that, up to May last, nearly two months subsequent to the arrangement entered into through the mediation of General Scott, no troops whatever were stationed at Temiscouata Lake; that in August, September, and October, the number did not exceed twenty-five; while now it has been increased to about two hundred: that, prior to May, no barracks had been erected at Temiscouata; but that, since that time, two have been built at the head of the lake, besides some five or six other buildings apparently adapted to the establishment of a permanent military post, and at the foot of the lake, two or more buildings for barracks and other military purposes; that, though no new barracks have been erected at Madawaska, certain buildings, heretofore erected, have been engaged for use as such: that a road has been constructed, connecting the military post at the head and foot of the lake—a towpath made the whole length of the Madawaska River—the road from the head of the lake to the military post at the River Des Loup thoroughly repaired—transport boats built, &c., &c.

I would further inform your Excellency, that an agent has been dispatched to Temiscouata and Madawaska for the purpose of procuring exact information of the state of things there at the present moment: but having incidentally found some evidence of the state of things prior to November last, I have thought best to forward it without delay for the purpose of disabusing the Government and the country of the errors into which they may have been led by the communication before alluded to. The report of the agent will be transmitted as soon as received, which may be short of two weeks.

Under these circumstances, I have only to repeat my official call upon the General Government for the protection of this State from invasion.

I have, &c.,

(Signed) JOHN FAIRFIELD,  
Governor of Maine.

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Inclosure 79 in No. 30.

*Report to the Governor of Maine.*

*Augusta, Maine, February 27, 1840.*

[See Inclosure 10 in No. 30, p. 122.]

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Inclosure 80 in No. 30.

*Resolutions of the Legislature of Maine upon the question of the Boundary.*

*British Consulate, Maine and New Hampshire,*  
(Extract.) *Portland, March 5, 1840.*

ON the 4th instant the following resolutions were brought before the House by Mr. Paine and referred to a committee, viz.:—

First resolution declares “that a continued delay of the British Government to any just and reasonable measure for the settlement of the line, together with recent military movements known to have taken place in the Provinces, clearly indicates a determination on its part, to maintain by force, if necessary, its usurped and unjustifiable possession of a portion of this State.”

"Second, complains of the delay of the General Government of the United States to prosecute a system of defences for the country, and to make preparations for war which may not be very remote, and to which the clearest dictates of patriotism and common prudence urge."

"Third, That the peculiarly exposed condition of Maine, having a long line of sea coast, calls for the immediate attention of the General Government.

"Fourth, that the British troops quartered upon our territory cannot, consistently with the national honor, be permitted to remain, and that, unless voluntarily withdrawn, it will be the duty of the General Government to expel them by force."

"Fifth, that if during the Session of Congress, no reply should be made by the British Government to a proposition of the General Government (supposed to have been submitted in July last), it will be the imperative duty of our Government to take military possession of the territory and maintain it."

"Sixth, that while a reasonable prospect remains that the General Government will enforce the rights of Maine by taking military possession of the whole territory in dispute, in case the attempt to effect an amicable settlement of the line, should be unsuccessful, this State will forbear to take such possession herself, and no longer."

## No 31.

*Viscount Palmerston to Mr. Fox.*

Sir,

*Foreign Office, April 14, 1840.*

IN my despatch of the 19th of February last, I instructed you to acquaint the Government of the United States, that Her Majesty's Government were only waiting for the detailed Report which Colonel Mudge and Mr. Featherstonhaugh were then preparing, in order to send to the United States an answer to their last communication about the Boundary Question. I had hoped that the Report would have been completed by this time, and that I might have been enabled to give you instructions thereupon by the present steamer, but it has not yet been delivered in. I have reason to expect, however, that the Report will be ready in the course of a week, when it will be immediately taken into consideration by Her Majesty's Government.

I am, &c.,

(Signed) PALMERSTON.

## No. 32.

*Mr. Fox to Viscount Palmerston.—(Received April 16, 1840.)*

(Extract.)

*Washington, March 30, 1840.*

THE last document transmitted to Her Majesty's Government in my despatch of the 17th instant, belonging to the series of correspondence that has passed between the United States Government and myself, in relation to the affairs of the disputed territory, was an official note presented by me to Mr. Forsyth on the 13th instant, in conformity with the instructions contained in your Lordship's despatch of the 19th of February.

I formally protested anew in that note against the acts of aggression of the State of Maine, which, so far from being disproved or discontinued, are, on the contrary, persisted in and avowed; and I announced the line of conduct which, under these circumstances, Her Majesty's Government have resolved to pursue for the protection of Her Majesty's rights, pending the negotiation of the Boundary Question.

I have the honour, in the present despatch, to inclose the copy of a detailed answer to the above note, addressed to me by Mr. Forsyth on the 25th instant, together with the copy of another short official note in reply, which, after receiving Mr. Forsyth's answer, I presented to him on the 26th.



I have contented myself, in this last reply, as no new facts or arguments had been produced by Mr. Forsyth, with referring to, and repeating, the protests and declarations contained in the preceding parts of my correspondence, and with recording my opinion, that an adherence to the line of conduct resolved upon by Her Majesty's Government for the defence of Her Majesty's rights, offers the only means of protecting those rights from being, in a continually-aggravated manner, encroached upon and violated. These additional documents, which I now inclose, have been communicated by the President to the Senate. They are referred, together with the rest of the correspondence, to the Senate's Committee of Foreign Affairs. No report from the Committee has yet been made, and no other proceedings had in Congress, excepting some additional speeches delivered by the Senators from Maine and Massachusetts, upon occasion of the communication of the last papers, in a tone, I was glad to perceive, of less hostility than before.

I shall now consider the correspondence as closed on my side, at least for the present, and unless I shall receive instructions from your Lordship to resume it. In continuing the correspondence, as the case now stands, I should only have to repeat again and again the same declarations that have been already made.

Her Majesty's Government cannot acquiesce in the arguments persisted in by Mr. Forsyth in his last official note here inclosed, either as regards the geographical limits of the Madawaska Settlement, or the extent of country over which, according to a fair construction of the provisional agreements of last year, the operations of the Maine Land Agent's *posse*, employed for the purpose of preventing depredations upon the public timber, were to be allowed to reach. But, on the other hand, the position of Her Majesty's Government has, in the course of the correspondence, been distinctly defined, and the line of conduct to which Her Majesty's Government are resolved to adhere, for the defence of Her Majesty's rights, pending the negotiation of the Boundary Question, has been made known to the Government, and to the people of the United States, in a manner sufficiently clear and decisive. I now feel confident that the intention of violently interrupting the negotiation has been laid aside by the State of Maine, and that the two Governments will, from henceforward, be left to conduct the controversy to its conclusion, in a tranquil and reasonable manner. And this being the case, I see no just cause for apprehending, that the controversy will end in war. Both Governments, and the great majority of both nations, desire to have peace. The danger hitherto has been, that an incidental collision on the border, growing out of the reckless violence of the authorities of Maine, would hurry the two countries into war, in contradiction to the will of their Governments. But I hope and believe, that there is less reason to apprehend such a result now, than at any previous period since the beginning of the Boundary excitement, fifteen months ago.

It will be remarked, that the United States Secretary of State, in his last note, dated the 25th instant, makes an attempt to deny that the hostile and violent intentions imputed to the State of Maine have ever been, in fact, entertained by the authorities or people of that State; and he endeavours, in consequence, to have it appear, that the protests and declarations of Her Majesty's Government have been uncalled for and vexatious, and the accompanying military preparations and precautions unnecessary; but, in this, Mr. Forsyth lays out of view the plain facts of the case; namely, that the protests and declarations for which Her Majesty's authorities are reproached, and the military preparations complained of, with the publicity given to both, are the exact means that have served to induce the people of Maine to desist from those acts of violence which there is no doubt they meditated.

The session of the State Legislature of Maine was adjourned on the 18th instant. The resolutions in relation to the Boundary dispute, of which I had the honour to inclose a copy in my despatch of the 17th instant, were passed, in substance, by the two Houses of the State Legislature, previously to their adjournment, after being in some degree modified. I have not yet, however, received a copy of the resolutions, in the exact form in which they were passed.

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Inclosure 1 in No. 32.

*Mr. Forsyth to Mr. Fox.*

*Department of State,  
Washington, March 25, 1840*

THE Undersigned, Secretary of State of the United States, acknowledges to have received Mr. Fox's communication of the 13th instant, in reference to the Boundary negotiation, and the affairs of the disputed territory.

The information given in the closing part of it, that a reply to the last proposition of the United States upon the subject of the boundary, may be expected in a short time, is highly gratifying to the President, who has, however, given directions to the Undersigned, in making this acknowledgment, to accompany it with the expression of his profound regret that Mr. Fox's note is in no other respect satisfactory.

After the arrangements which in the beginning of last year were entered into on the part of the two Governments, with regard to the occupation of the disputed territory, the President had indulged the hope that the causes of irritation which had grown out of this branch of the subject would have been removed. Relying on the disposition of Maine to cooperate with the Federal Government in all that could lead to a pacific adjustment of the principal question, the President felt confident that his determination to maintain order and peace on the border, would be fully carried out. He looked upon all apprehensions of designs by the people of Maine to take possession of the territory, as without adequate foundation, deeming it impossible, that on the eve of an amicable adjustment of the question, any portion of the American people would, without cause and without object, jeopard the success of the negotiation, and endanger the peace of the country.

A troublesome, irritating, and comparatively unimportant, because subordinate subject, being thus disposed of, the President hoped that the parties would be left free at once to discuss, and finally adjust the principal question. In this he has been disappointed. While the proceedings of Her Majesty's Government at home have been attended with unlooked for delays, its attention has been diverted from the great subject in controversy by repeated complaints imputing to a portion of the people of the United States designs to violate the engagements of their Government, designs which have never been entertained, and which Mr. Fox knows would receive no countenance from this Government.

It is to be regretted that at this late hour so much misapprehension still exists on the side of the British Government, as to the object and obvious meaning of the existing arrangements respecting the disputed territory. The ill success which appears to have attended the efforts made by the Undersigned to convey through Mr. Fox to Her Majesty's Government, more correct impressions respecting them, calls for a recurrence to the subject; and a brief review of the correspondence which has grown out of it, may tend to remove the erroneous views which prevail as to the manner in which the terms of the arrangements referred to have been observed.

As Mr. Fox had no authority to make any agreement respecting the exercise of jurisdiction over the disputed territory: that between him and the Undersigned, of the 27th of February, 1839, had for its object some provisional arrangement for the restoration and preservation of peace in the territory. To accomplish this object, it provided that Her Majesty's officers should not seek to expel by force the armed party which had been sent by Maine into the district bordering on the Restook River; and that, on the other hand, the Government of Maine would, voluntarily and without needless delay, withdraw beyond the bounds of the disputed territory any armed force then within them. Besides this, the arrangement had other objects,—the dispersion of notorious trespassers, and the protection of public property from depredation. In case future necessity should arise for this, the operation was to be conducted by concert, jointly or separately, according to the agreement between the Governments of Maine and New Brunswick.

In this last-mentioned respect, the agreement looked to some further arrangements between Maine and New Brunswick. Through the agency of



General Scott, one was agreed to on the 23rd and 25th of March following, by which Sir John Harvey bound himself not to seek, without renewed instructions to that effect from his Government, to take military possession of the territory, or to expel from it, by military force, the armed civil posse, or the troops of Maine. On the part of Maine it was agreed by her Governor, that no attempt should be made without renewed instructions from the Legislature to disturb by arms the Province of New Brunswick, in the possession of the Madawaska Settlement, or interrupt the usual communication between that and the Upper Provinces. As to possession and jurisdiction, they were to remain unchanged, each party holding in fact, possession in part of the disputed territory, but each denying the right of the other to do so. With that understanding, Maine was, without unnecessary delay, to withdraw her military force, leaving only, under a Land Agent, a small civil posse, armed or unarmed, to protect the timber recently cut, and to prevent further depredations.

In the complaints of infractions of the agreements by the State of Maine, addressed to the Undersigned, Mr. Fox has assumed two positions which are not authorized by the terms of those agreements: 1st, admitting the right of Maine to maintain a civil posse in the disputed territory, for the purposes stated in the agreement, he does so, with the restriction that the action of the posse was to be confined within certain limits; and 2ndly, By making the advance of the Maine posse into the Valley of the Upper St. John the ground of his complaint of encroachment upon the Madawaska Settlement, he assumes to extend the limits of that Settlement beyond those it occupied at the date of the agreement.

The United States cannot acquiesce in either of these positions.

In the first place, nothing is found in the agreement subscribed to by Governor Fairfield and Sir John Harvey, defining any limits in the disputed territory, within which the operations of the civil posse of Maine were to be circumscribed.

The task of preserving the timber recently cut, and of preventing further depredations within the disputed territory, was assigned to the State of Maine, after her military force should have been withdrawn from it; and it was to be accomplished by a civil posse, armed or unarmed, which was to continue in the territory, and to operate in every part of it where its agency might be required, to protect the timber already cut, and prevent further depredations, without any limitation whatever, or any restrictions, except such as might be construed into an attempt to disturb by arms the Province of New Brunswick, in her possession of the Madawaska Settlement, or interrupt the usual communication between the Provinces.

It is thus, in the exercise of a legitimate right, and in the conscientious discharge of an obligation imposed upon her by a solemn compact, that the State of Maine has done those acts which have given rise to complaints for which no adequate cause is perceived. The Undersigned feels confident that when those acts shall have been considered by Her Majesty's Government at home, as explained in his note to Mr. Fox, of the 24th of December last, and in connexion with the foregoing remarks, they will no longer be viewed as calculated to excite the apprehensions of Her Majesty's Government that the faith of existing arrangements is to be broken on the part of the United States.

With regard to the second position assumed by Mr. Fox, that the advance of the Maine posse along the valley of the Restook to the mouth of Fish River, and into the valley of the Upper St. John, is at variance with the terms and spirit of the agreements, the Undersigned must observe, that if at variance with any of their provisions, it could only be with those which secure Her Majesty's Province of New Brunswick against any attempt to disturb the possession of the Madawaska Settlements, and to interrupt the usual communications between New Brunswick and the Upper Provinces. The agreement could only have reference to the Madawaska Settlements as confined within their actual limits at the time it was subscribed. The Undersigned, in his note of the 24th of December last, stated the reasons why the mouth of the Fish River and the portion of the valley of the St. John through which it passes, could in no proper sense be considered as embraced in the Madawaska Settlements.

Were the United States to admit the pretensions set up on the part of

Great Britain to give to the Madawaska Settlements a degree of constructive extension that might, at this time suit the purposes of Her Majesty's Colonial authorities, those settlements might soon be made with like justice, to embrace any portions of the disputed territory; and this right given to the Province of New Brunswick to occupy them temporarily, and for a special purpose, might by inference, quite as plausible, give the jurisdiction exercised by Her Majesty's Authorities, an extent which would render the present state of the question, so long as it could be maintained, equivalent to a decision on the merits of the whole controversy in favour of Great Britain. If the small settlement at Madawaska on the north side of the St. John's, means the whole valley of that river,—if a boom across the Fish River, and a station of a small posse on the south side of the St. John's, at the mouth of Fish River, is a disturbance of that settlement, which is twenty-five miles below,—within the meaning of the agreement, it is difficult to conceive, that there are any limitations to the pretensions of Her Majesty's Government under it, or how the State of Maine could exercise the preventive power with regard to trespasses, which was on her part, the great object of temporary arrangement. The movements of British troops lately witnessed in the disputed territory, and the erection of military works for their protection and accommodation, of which authentic information recently received at the Department of State, has been communicated to Mr. Fox, impart a still graver aspect to the matter immediately under consideration. The fact of those military operations established beyond a doubt, left unexplained, or unsatisfactorily accounted for, by Mr. Fox's note of the 7th instant, continues an abiding cause of complaint on the part of the United States, against Her Majesty's Colonial Agents, as inconsistent with arrangements, whose main object was to divest a question already sufficiently perplexed and complicated, from such embarrassments as those with which the proceedings of the British Authorities cannot fail to surround it.

If, as Mr. Fox must admit, the objects of the late agreements were the removal of all military force, and the preservation of the property from further spoliations, leaving the possession and jurisdiction as they stood before the State of Maine found itself compelled to act against the trespassers, the President cannot but consider, that the conduct of the American local authorities strongly and most favourably contrasts with that of the Colonial authorities of Her Majesty's Government. While the one, promptly withdrawing its military force, has confined itself to the use of the small posse, armed as agreed upon, and has done no act not necessary to the accomplishment of the conventional objects, every measure taken or indicated by the other party, is essentially military in its character, and can be justified only by a well-founded apprehension that hostilities must ensue.

With such feelings and convictions, the President could not see, without painful surprise, the attempt of Mr. Fox, under instructions from his Government, to give to the existing state of things a character not warranted by the friendly dispositions of the United States, or the conduct of the authorities and people of Maine—much more is he surprised to find it alleged as a ground for strengthening a military force, and preparing for a hostile collision with the unarmed inhabitants of a friendly State, pursuing within their borders their peaceful occupations, or exerting themselves in compliance with their agreements to protect the property in dispute from unauthorized spoliation.

The President wishes that he could dispel the fear that these dark forebodings can be realized. Unless Her Majesty's Government shall forthwith arrest all military interference in the question—unless it shall apply to the subject more determined efforts than have hitherto been made to bring the dispute to a certain and pacific adjustment the misfortunes predicted by Mr. Fox, in the name of his Government, may most unfortunately happen. But no apprehension of the consequences alluded to by Mr. Fox, can be permitted to divert the Government and people of the United States from the performance of their duty to the State of Maine. That duty is as simple as it is imperative.

The construction which is given by her to the Treaty of 1783, has been again and again, and in the most solemn manner, asserted also by the Federal Government, and must be maintained, unless Maine fully consents to a new Boundary, or unless the construction of the Treaty is found to be erroneous



by the decision of a disinterested and independent tribunal selected by the parties for its final adjustment. The President, on assuming the duties of his station, avowed his determination, all other means of negotiation failing, to submit a proposition to the Government of Great Britain to refer the decision of the question once more to a third party.

In all the subsequent steps which have been taken upon the subject by his direction, he has been actuated by the same spirit. Neither his disposition in the matter, nor his opinion as to the propriety of that course, has undergone any change. Should the fulfilment of his wishes be defeated either by an unwillingness on the part of Her Majesty's Government to meet the offer of the United States in the spirit in which it is made, or from adverse circumstances of any description, the President will in any event, derive great satisfaction from the consciousness that no effort on his part has been spared to bring the question to an amicable conclusion; and that there has been nothing in the conduct either of the Government and people of the United States, or of the State of Maine, to justify the employment of Her Majesty's forces as indicated by Mr. Fox's letter.

The President cannot under such circumstances apprehend that the responsibility for any consequences which may unhappily ensue, will, by the just judgment of an impartial world be imputed to the United States.

The Undersigned avails himself, &c.,

(Signed)

JOHN FORSYTH.

Inclosure 2 in No. 32.

*Mr. Fox to Mr. Forsyth.*

*Washington, March 26, 1840.*

THE Undersigned, Her Britannic Majesty's Envoy Extraordinary and Minister Plenipotentiary, has had the honour to receive the official note of yesterday's date, addressed to him by Mr. Forsyth, Secretary of State of the United States, in reply to a note dated the 13th instant, wherein the Undersigned, in conformity with instructions received from his Government, had anew formally protested against the acts of encroachment and aggression, which are still persisted in by armed bands in the employment of the State of Maine, within certain portions of the disputed territory.

It will be the duty of the Undersigned, immediately to transmit Mr. Forsyth's note to Her Majesty's Government in England; and until the statements and propositions which it contains shall have received the due consideration of Her Majesty's Government, the Undersigned will not deem it right to add any further reply, than to refer to, and repeat, as he now formally and distinctly does, the several declarations which it has, from time to time, been his duty to make to the Government of the United States, with reference to the existing posture of affairs in the disputed territory; and to record his opinion, that an inflexible adherence to the line of conduct which Her Majesty's Government have announced it to be their resolution to pursue, for the defence of Her Majesty's rights, pending the negotiation of the Boundary Question, offers to Her Majesty's Government the only means of protecting those rights from being, in a continually-aggravated manner, encroached upon and violated.

The Undersigned avails himself, &c.,

(Signed)

H. S. FOX.

No. 33.

*Viscount Palmerston to Mr. Fox.*

Sir,

*Foreign Office, April 30, 1840.*

HER Majesty's Government had been in hopes that they should have been able to have sent to you, by the "British Queen," instructions to make to the American Government a further proposal, with a view to arriving at a final settlement of the Boundary Question; but they have been disappointed. Her Majesty's Government felt that they could not fully make up their minds

as to the nature of the proposal to be submitted to the Government of the United States, until they had received and considered the Report of the Commissioners who were employed last summer and autumn in surveying the disputed territory; and the compilation of that report, and of its accompanying map, having taken rather more time than was at first expected, the Report has only very lately been received.

Her Majesty's Government will however now, without delay, give their most earnest attention to this matter; and I trust that by the next steam-packet I shall be able to send to you full instructions upon this subject. The course which Her Majesty's Government at present think of pursuing, is to communicate to the United States Government a copy of the Commissioners' Report, together with a proposal in reply to the last proposition made by the United States Government, for a joint Commission of Survey; and Her Majesty's Government will probably also feel it necessary to lay the Report of the British Commissioners before Parliament, together with certain other documents connected with the Boundary Question, which Parliament has already called for.

You will communicate the substance of this despatch to the Government of the United States.

I am, &c.,  
(Signed) PALMERSTON.

No. 34.

*Mr. Fox to Viscount Palmerston.—(Received June 17, 1840.)*

(Extract.)

*Washington April 17, 1840.*

I HEREWITH inclose a correct printed copy of the resolutions upon the Boundary Question, which were adopted by the two houses of the State Legislature of Maine, previously to their adjournment on the 18th of last month, the substance whereof was referred to in my despatch of the 17th ultimo.

Inclosure in No. 34.

*Resolutions of the Maine Legislature, 18th of March.*

*Resolved*, That the patriotic enthusiasm with which several of our sister States, the past year, tended us their aid to repel a threatened foreign invasion, demands our grateful recollection; and whilst that spirit of self-sacrifice and self-devotion to the national honour pervades the Union, we cannot doubt that the integrity of our territory will be preserved.

*Resolved*, That the promptness and unanimity with which the last Congress, at the call of this State, placed at the disposal of the President the arms and treasures of the nation for our defence; the firmness of the President in sustaining the action of this State, and repelling the charge of an infraction of the arrangement made with the British Lieutenant-Governor, in March last, and charging back upon the British Government the violation of this agreement; and their decision in demanding the removal of the British troops now quartered upon the disputed territory, as the only guaranty that England sincerely desires an amicable adjustment of the Boundary Question, afford us confident assurance that this State will not be compelled, single-handed, to take up arms in defence of our territory and the national honour, and that the crisis is near when this question will be settled by the National Government, either by negotiation, or by the ultimate resort.

*Resolved*, That unless the British Government, during the present session of Congress, make or accept a distinct and satisfactory proposition for the immediate adjustment of the Boundary Question, it will be the duty of the General Government to take military possession of the disputed territory; and, in the name of a Sovereign State, we call upon the National Government to fulfil its constitutional obligations, to establish the line which it has solemnly declared to be the true boundary, and to protect this State in extending her jurisdiction to the utmost limits of our territory.



*Resolved*, That we have a right to expect that the General Government will extend to this member of the Union, by negotiation or by arms, the protection of her territorial rights, guarantied by the Federal Compact, and thus save her the necessity of falling back upon her natural and reserved rights of self-defence and self-protection—rights which constitutions can neither give nor take away; but should this confidence of a speedy crisis be disappointed, it will become the imperative duty of Maine to assume the defence of our State and national honour, and expel from our limits the British troops now quartered upon our territory.

*Resolved*, That the Governor be requested to forward copies of these resolutions to the President and heads of departments, and to the Senators and Representatives in Congress from this State, with a request to the latter to lay them before the respective bodies of which they are members; also, to the Governors of the several States, with a request to lay them before their several Legislatures.

## No. 35.

*Mr. Fox to Viscount Palmerston.—(Received May 25, 1840.)*

(Extract.)

*Washington, May 7, 1840.*

I HAVE had the honour to receive, by the steam packet *Great Western*, your Lordship's Despatch of the 14th of April, relating to the boundary negotiation.

Mr. Forsyth informs me that by the same conveyance he has received letters from Mr. Stevenson, which are considered satisfactory by the United States Government, inasmuch as they contain assurances of Mr. Stevenson's conviction, founded, I believe, upon recent personal communications with your Lordship, that a sincere desire exists on the part of Her Majesty's Government to conduct the boundary negotiation to an amicable conclusion.

No further correspondence upon the subject of the boundary affairs has passed between the American Government and myself, and no further proceedings have taken place in Congress, since the date of my Despatch of the 17th of April. The brief but important debate in the Senate of the 14th of April, of which a report was forwarded in that Despatch, has produced a favourable effect throughout the United States.

With reference to the latter part of the correspondence upon the boundary affairs which recently passed between the United States' Government and myself, I have now the honour to inclose copies of a further correspondence upon the same subject between Major-General Sir John Harvey and myself. Sir John Harvey's letter now inclosed, of the 16th of April, relates, it will be seen, principally to the positions assumed in Mr. Forsyth's official note to me of the 25th of March, (forwarded to Her Majesty's Government, in my Despatch of the 30th of March,) with reference to the geographical limits of the Madawaska Settlements, and to the extent of country over which, according to the true intent of the provisional agreement entered into at the beginning of last year, between the Governments of New Brunswick and Maine, the Maine land agent's posse ought to have been allowed to act.

Inclosure 1 in No. 35.

*Mr. Fox to Sir John Harvey.*

(Extract.)

*Washington, March 28, 1840.*

I HEREWITH inclose correct copies of two further official notes which have passed between the United States' Government and myself, upon the subject of the affairs of the disputed territory, subsequently to the date of my last letter to you.

These will probably close the correspondence for the present, at least on my part, and until I receive fresh instructions from Her Majesty's Government;

as in continuing it, I should only have to repeat again and again the same declarations which have been already made. Nevertheless, as circumstances may arise to render a renewal of the correspondence necessary, I would very particularly direct your attention to those paragraphs in Mr. Forsyth's note, which I have marked in the margin of the inclosed copy. It is impossible for us to acquiesce in the positions assumed by the United States' Government in those passages, and I shall be extremely glad to be favoured with your opinion upon the several points to which they relate; that is to say, upon the geographical limits, as hitherto always understood, of the Madawaska Settlements; and upon the extent of country over which, according to the fair construction of your agreement with Governor Fairfield, the operations of the Maine land agent's posse, employed for the purpose of preventing depredations upon the public timber, were to be allowed to reach. I do not know whether Her Majesty's Government may desire that I should resume the correspondence with the United States' Government upon the above points; but I shall be most glad to receive every needful information upon the points above mentioned.

Observing what has recently passed, I feel tolerably well assured that the people of Maine will attempt no further inroad or act of aggression over the disputed territory, during the present year at least; but that they will leave their case, for so long, altogether in the hands of the General Government.

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Inclosure 2 in No. 35.

*Sir John Harvey to Mr. Fox.*

Sir,

*Government House,  
Frederickton, N.B., April 16, 1840.*

I HAVE perused with deep interest the note addressed to your Excellency by Mr. Forsyth, under date of the 25th ultimo, of which you have transmitted me a copy and invited my observations upon.

As the subject of that communication relates almost exclusively to the Agreement entered into by the Governor of the State of Maine and myself, through the mediation of General Scott, in March, 1839, I feel myself called upon fully to possess your Excellency not only of the considerations by which I was influenced in acceding to the proposed Agreement, but also of my construction of the true intent, spirit, and meaning of its provisions.

A sudden and entirely unexpected irruption had been made by a large body of the militia of the State of Maine, under the authority of certain "resolves" of its Legislature, adopted after long discussion with closed doors, into a portion of the territory in dispute between Great Britain and the United States, (the whole of which territory had up to that period continued in the possession of Great Britain, and had provisionally constituted an integral part of the province of New Brunswick, subject to its laws and acknowledging no other jurisdiction,) viz., the Valley of the Restook, where they took post, fortified their position, and loudly announced their intention of taking immediate possession of the whole of the disputed territory; and, to support this advanced force, a further call was made by the Government of Maine on the militia of the State, large bodies of which accordingly assembled at Houlton and elsewhere, proclaiming their object. Under circumstances so extraordinary, and proceedings so little comprehensible on the part of a subordinate section of a nation at peace with Great Britain, I could only look to the instructions which I held from Her Majesty's Government for my guidance; by these I found myself required to protest in the first instance, both direct to the authorities of Maine, and through your Excellency to the General Government of the United States, and in the second, to be prepared to assert and maintain the possession and jurisdiction of Great Britain in and over the disputed territory, to give protection to Her Majesty's subjects settled therein, and to guard our established line of communication with Canada by the valley of the St. John and the Madawaska settlement.

The measures which I adopted with a view to the fulfilment of these instructions are known to your Excellency and to the world. At this crisis your Excellency interposed, and a correspondence was shortly afterwards opened with me upon the subject by my friend General Scott of the United States



army, of which the object was to avert a conflict of arms upon a point of comparatively minor importance with respect to the determination of the great question at issue between the two nations, by proposing that each party should pause, should mutually forbear from collision, and should continue in the position in which they then stood as to actual possession, neither party admitting or conceding the ultimate right of the other to such possession, Maine agreeing to withdraw the whole of her militia forces, upon my engaging to abstain from any offensive operations against them with a view to their expulsion.

Upon the ratification of an agreement to this effect, accompanied as it was by an assurance from General Scott, (which to me was entirely conclusive,) of his conviction that it would be fulfilled by Maine "cheerfully and in good faith," I immediately ordered back to Canada Her Majesty's 11th Regiment, which was then in the occupation of both banks of the St. John River, just below the confluence of it with the Madawaska, and I shortly afterwards despatched the warden of the disputed territory with a suitable posse, with instructions to seize and destroy all timber illegally cut, and effectually to prevent, by the force of the laws of this Province, all further depredations upon the timber of that portion of the disputed territory comprised in the valley of the Upper St. John.

Scarcely, however, had these orders been given and these movements made, in the very spirit as I declare to your Excellency, of an anxious desire on my part to give effect to what I considered to be the true intent of the arrangement, when I learned, with equal astonishment and concern, that a portion of the armed posse of Maine, had not only advanced from the valley of the Restook to that of the Upper St. John, and had established and commenced fortifying itself, (why do this, if not conscious of the infringement of the agreement which it was committing?) at the mouth of the Fish River; but that the person in charge of this party (of the name of Nye) had actually threatened to arrest the British warden (whose posse was unarmed) in the execution of the duties which I had assigned to him. Against this bold infraction of the agreement so recently concluded, I immediately protested to the Authorities of Maine, through its land agent, to the Presidential Government through your Excellency, and finally to General Scott as the mediator and guarantee of the compact; to whom I stated, that in order to do all that depended upon me to carry out the great object of the agreement, viz., the prevention of collision, I had instructed the warden to withdraw with his posse from the immediate neighbourhood of that of Maine, which, as I have before stated, had openly threatened to make a prisoner of the British functionary; one, be it remembered, whose appointment had been recognised and concurred in by the United States' Government.

With reference to these proceedings and to the agreement itself, I will here remark that, apart from the consideration of the establishment of the Maine posse at the mouth of Fish River being an encroachment on actual British possession, it cannot but be regarded as highly objectionable when viewed merely in the light of an extension of that of Maine, beyond what she possessed at the time of its conclusion.

In that agreement the Governor of Maine expressly consents to leave the question of possession and jurisdiction as they at present stand, *i. e.*, "Great Britain holding in fact possession of a part of the said Territory, and the Government of Maine denying her right to such possession, and the State of Maine holding in fact possession of another portion of the same territory to which her right is denied by Great Britain."

In giving effect to this agreement, the first inquiry would necessarily be, how the possession and jurisdiction of the respective parties actually stood at the time of its conclusion? On this point the facts are, that Great Britain held the actual possession and jurisdiction which she had had from the beginning in the valley of the Upper St. John, comprehending the Madawaska settlements as limited by the uppermost locations of the actual settlers; and that the 11th Regiment was at that time actually stationed on both banks of the Upper St. John, immediately below the mouth of the Madawaska River. Great Britain was in like manner in possession of the whole course of the Madawaska River and the Temiscouata Lake and Portage, comprehending the Fief of Madawaska on the line of communication connecting the British Provinces. On the other hand it must be admitted that the State of Maine had gained a footing and an

actual possession in the valley of the Restook, which, therefore, was the portion of the disputed territory referred to in the agreement as being, in fact, held in possession by that State. Such were the circumstances as to actual possession at the time of the agreement. Although not required by the terms of that agreement to withdraw Her Majesty's troops from their position in the Madawaska settlement; nevertheless, acting under what I may perhaps be excused for designating as a nice and scrupulous sense of the spirit of that compact, I lost no time, immediately upon its ratification, in ordering them to return to Canada, and in directing them to be replaced by an unarmed civil posse. The consequences I have already stated, and have ventured to apply to them the terms by which the American Secretary of State has thought fit to characterize the strictly defensive measures adopted by the British Colonial authorities.

Finally, with a view to place what is really the principal if not the only question involved in this discussion, in a light in which it does not appear to have been considered, I will observe that the limits within which the operations of the Maine land agent's posse employed for the purpose of preventing depredations upon the public timber ought, under the agreement, to have been restrained, must depend upon the clause in which the Governor of Maine undertakes "to withdraw the military force of the State from the said disputed territory, leaving only, under a land agent a small civil posse, armed or unarmed, to protect the timber recently cut, and to prevent further depredations." The natural and fair construction of this stipulation, that the civil posse was to be left in that part of the disputed territory from which the military force was to be withdrawn, namely, the Valley of the Restook, this being also the portion of the territory before referred to, as in the actual possession of the State of Maine,—and that the operations of this posse should not be extended beyond that portion of it. This, at least, is what I contemplated, and all to which I intended to give my assent,—and I know not that I can better illustrate my impressions on this point than by stating that if a distinct stipulation had been introduced into the agreement, that Maine should acquire the right of advancing her possession and co-ordinate jurisdiction to the Upper St. John, or to any part of that river, I should have felt myself compelled to have instantly rejected such a proposition as alike incompatible with the possession and jurisdiction which I was instructed to maintain, with the protection which I was required to afford to Her Majesty's subjects of the Madawaska settlements, and with the security of our established line of communication with Canada.

The declaration therefore by Mr. Forsyth, in his note of the 25th ultimo, that I had by that agreement assigned to the State of Maine, and therefore myself parted with the right and duty of protecting the public timber in the disputed territory, cannot be regarded as otherwise than a gratuitous, and I might add an unfounded assumption which all my public acts, more especially my proclamations and instructions to the warden sufficiently refute and prove that those rights and duties have never ceased to be exercised by this Government.

In conclusion, I beg earnestly to invite your Excellency's attention to the annexed, very clear, satisfactory, and conclusive memorandum on the limits of the Madawaska settlements by the respected Chief Justice of this province, (before whom Mr. John Baker was tried,) and to the sketch appended to it, of which the fidelity admits of no doubt.

I have, &c.,  
(Signed) J. HARVEY.

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Inclosure 3 in No. 35.

*Memorandum on the limits of the Madawaska Settlements.*

THE geographical limits of the Madawaska settlements may be pointed out with a near approach to precision. These settlements have been progressively formed during a period commencing upwards of fifty years ago, and extending down to the present time, principally by the French Acadian population from the lower parts of the St. John, and their descendants, that have from time to time set down upon the lands, some under grants from the Government



of New Brunswick, and many without title. The lower limit of these settlements, as they existed in March, 1839, may be stated to be the Great Falls, and the upper limit the River St. Francis; and the settlements are made on both banks of the river (that is the Main River St. John) without distinction, and are not confined to the north side of it. For some distance below the confluence of this river, quite up to the St. Francis, although the population is not so dense as it is below, yet there is such a continuity of settlements on one bank or the other, that it may be stated as the general fact, that a traveller on the river is always in sight of a dwelling or a clearing. A reference to Mr. Wilkinson's sketch, which accompanies these remarks, will show this to be the case, and also shows the chapel for the upper settlements on the southern bank of the river, about nine miles above the confluence of the Madawaska. The French settlers throughout this tract of country, without any distinction between those in the upper and those in the lower parts of it, are known in New Brunswick by the common appellation of the "Madawaska settlers," and owe a common allegiance to the Crown of Great Britain. The authorities of this province have always deemed their jurisdiction to extend alike to all parts of these settlements, and there are many instances of the exercise of this jurisdiction on record. The most remarkable instance is that of the case of John Baker, who was tried and convicted in the Supreme Court at Frederickton, in the month of May, 1825, for acts in resistance to British laws and authority, committed on the lot upon which he then resided, and still continues to reside, at the mouth of the Merumticook River, about five miles below the Fish River; which lot, when he first went upon it, about 1823, Baker considered as being within the Province of New Brunswick, and subject to its laws, and he received a provincial bounty for grain raised upon this land. In this case it was proved and held by the Court, that in point of fact, the possession and jurisdiction of the Province of New Brunswick existed throughout the Madawaska settlements, in their whole extent upwards and downwards, and that there was no line of division, in this respect, between the several parts of the whole settlement, nor any principle known to the Court, upon which any such line of division could be formed. This case was one of notoriety, and a subject of discussion between the Governments of Great Britain and the United States. A report of it was among the documents laid before the King of the Netherlands on the Boundary arbitration, and will be found in the Appendix to the Boundary Pamphlet, published at St. John, in 1839. A copy of this pamphlet accompanies these remarks, in which are marked the several passages in the trial of Baker, which are particularly applicable to the limits of the Madawaska settlements.

Thus Mr. Forsyth's reasons for not considering the territory contiguous to the mouth of the Fish River as included in the Madawaska settlement, viz. "That it is distant some twenty-five miles above it, and the two points are not connected by any continuous occupation or settlement of the country," fall to the ground.

No. 36.

*Mr. Fox to Viscount Palmerston.—(Received June 17, 1840.)*

(Extract.)

*Washington, May 28, 1840.*

I HAVE had the honour to receive your Lordship's despatch upon the subject of the Maine boundary negotiation of the 30th of April, delivered to me by the Earl of Mulgrave. I have duly communicated the substance thereof to the Government of the United States. No further proceedings have been had in Congress with reference to the boundary negotiation, or to the affairs of the disputed territory, since the date of my last despatch to your Lordship.

# CORRESPONDENCE

RELATING TO THE

## NORTH AMERICAN BOUNDARY,

BETWEEN THE COLONIAL OFFICE AND HER MAJESTY'S PROVINCIAL  
AUTHORITIES IN NORTH AMERICA.

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No. 1.

*Major-General Sir John Harvey to Lord Glenelg.—(Received  
March 28, 1839.)*

(Extract.)

*Government House,  
Fredericton, February 24, 1839.*

IT can scarcely be necessary for me to explain, that, addressed as my remonstrances were to a subordinate State of a nation at peace with England, all I could have intended to convey to that State, was a distinct declaration, that if they should persist in certain acts, against which I found it my duty in obedience to the instructions of my Sovereign so to protest, they must thereby incur the hazard of placing the two nations, not the State of Maine and the Province of New Brunswick, in a state of war. My intimation, that I should, in such a case, be prepared to take military possession of the disputed territory, could have had no reference to any particular amount of physical force to be used on the occasion, it being merely intended as an intimation that, instead, as heretofore, of abstaining, as has always carefully been done, from the employment of any other than the civil authorities of this Province in asserting the right of the possession and jurisdiction of England in and over the district, the claim to which is in dispute, until the question of ultimate right is decided, I should, under certain assumed circumstances, viz.: the entrance into that district of an armed force, claiming to exercise co-ordinate authority on the part of the State of Maine, feel it my duty to support, or rather to replace the Civil by the Military arm, thereby at once making the question, what it virtually is, a strictly national one. To talk therefore of moving thousands of Militia into the territory is, as appears to me, to use the language of absurdity. I am not at present in a position, and therefore shall make no attempt, to resist such an inroad. But the British nation will doubtless feel it right to do so; and in such case, the instant evacuation of the territory, and a full reparation



for this unwarrantable act of aggression will doubtless be demanded and insisted upon from the General Government of the United States, and if not promptly afforded, England will know how to assert her rights.

In the mean time, I have renewed my reiterated applications to Sir Colin Campbell for reinforcements, and have also applied to the Governor-in-Chief for the means of enabling me to protect the Madawaska settlers, and keep open our communication with Canada.

No. 2.

*Major-General Sir John Harvey to Lord Glenelg.—(Received March 28, 1839.)*

(Extract.)

*Government House,  
Fredericton, February 26, 1839.*

I HAVE the honour to inclose several of the latest Journals from the State of Maine, where all appears to be excitement. By private accounts, however, I am assured that there is no present intention entertained of proceeding beyond the valley of Restook. In this case no collision can occur, as my instructions to Colonel Maxwell, are, on no account to quit that of the St. John, the objects of the present service being purely defensive, namely, to protect our communications with Canada and Her Majesty's subjects of the Madawaska Settlement.

I have dispatched special messengers to the Governor-in-Chief, and to Her Majesty's Minister at Washington, as, also, to Sir Colin Campbell for troops, that I am inclined to entertain the hope, that the measure which I propose to adopt in Council to-morrow, of issuing a strong Proclamation against all trespassers on the timber of the disputed territory, sending copies of it by confidential agents, and appointing a posse of civil assistants to act under the Warden in giving effect to it (or the person appointed to act in his absence), may do more towards satisfying and tranquillizing the minds of the Legislature and people of Maine, than any other which could be resorted to.

Inclosure 1 in No. 2.

*Mr. Sherwood to Captain S. Tryon.*

(Extract.)

*British Consulate, Portland,  
Maine, February 18, 1839.*

I HAVE to acquaint you for the information of his Excellency Major-General Sir John Harvey, that in addition to what I have already written you, in regard to the doings of the Legislature of this State in secret Session, and the raising of an armed force of 200 men, to proceed to the disputed territory, that the Governor of said State, has ordered out a force of from 1,000 to 2,000 men, to proceed forthwith in aid of the posse who have invaded Her Majesty's Territory; and report says, if needs be, to march to Fredericton, and there recapture the Land Agent and his associates, with such of Her Majesty's subjects as may be found trespassing upon the disputed territory.

It is a fact, in corroboration, that the Adjutant-General of the State arrived in this city, on Saturday, and took from the Arsenal from 1,000 to 2,000 stand of arms, or more, together with other warlike stores, which were carried away on Sunday morning, to arm the Militia at Bangor, for a further invasion; and, further, several waggons, also left, with powder, blankets, &c., for the army now being raised.

I also understand, that an express from the Governor of Maine, to that of Massachusetts, passed through this city, this morning, asking a co-operation of force to take possession of the Territory, and that the Legislature of Maine intend this day, to pass a resolve, placing at the disposal of the Governor for this purpose, and the Militia, 500,000 dollars. Be it

as it will, I fear from the excitement of the Legislature and people of this State, that matters will be carried to such length, as to cause much trouble to his Excellency, and great expense to his Government. Every thing here looks warlike, and the people are hot for it.

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Inclosure 2 in No. 2.

*Mr. Sherwood to Captain S. Tryon.*

*British Consulate,*

*Portland, February 19, 1839.*

(Extract.)

I addressed you yesterday, stating that 1,000 or 2,000 stand of arms and other warlike stores, had been taken from the Arsenal in this city, by order of the Governor of Maine, and carried off to Bangor, to arm the men drafted from the military divisions in that quarter, 1,000 of whom were immediately to march to the disputed territory, in aid of those already there.

I now have to acquaint you that I have since ascertained, that a further draft has been ordered out, of 1,000 men from each of the divisions in the State, for the like purpose, which will, with the force already raised, give an army of between 8,000 and 9,000.

The Militia of Maine consists of eight divisions, or about 43,000.

I need not inform you, that everything in this quarter is warlike, and, indeed, the same in the whole State; that the citizens are eager to try their strength, being confident of success, especially as you have no regular troops, and even if you had, in the woods they think they would be of but little use.

The drafting from the fifth division in this city and quarter, commences this evening or to-morrow morning, and, no doubt, will soon be completed, as whole companies offer their services.

There can be no doubt of the intention of this force. Maine is determined to take possession of the territory if they can, and to exercise exclusive jurisdiction over it.

P.S.—In addition to the arms above mentioned, as taken from the Arsenal here, 500 rifles may be added, which left here the day after, viz: yesterday.

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No. 3.

*Major-General Sir John Harvey to Lord Glenelg.—(Received April 30, 1839.)*

*Government House,*

*Fredericton, March 23, 1839.*

(Extract.)

THE confident hope of an early and amicable termination of the present Border dispute, which I ventured to express in my Speech upon closing the Session of the Provincial Legislature this day, I have had the satisfaction of finding confirmed by the arrival at Government House (during my absence at the Province Building), of a semi-official despatch, with an official inclosure, from General Scott, of which copies are inclosed, as well as of the memorandum placed by me upon the agreement.

I have requested the confirmation of this arrangement on the part of the Governor of Maine to be sent to me at Woodstock, to which place I proceed to-morrow.

Pending the reference to Her Majesty's Government, it is not my intention wholly to withdraw the troops from the positions which they at present occupy, with the exception of the Madawaska Settlement which will be sufficiently protected by a detachment which I shall leave at the Grand Falls, where I have caused a rough, but comfortable log barrack to be constructed, at an expense which I apprehend will not exceed about 200/.



I shall place a small guard at the mouth of the Restook, for the purpose of protecting the boom and assisting the proper officer in the protection of timber seized in its descent from the Restook into the St. John, attaching to each party a small number of militia.

I shall make a similar arrangement at Woodstock, concentrating the remainder of Her Majesty's troops at this place and St. John.

The temporary arrangement entered into with the State of Maine, through the agency of my friend, General Scott, is virtually, that Maine is for the present permitted to remain in the occupation by a Civil Posse of the valley of the Restook, without our admitting any right on her part to do so. New Brunswick remains in the possession of the valley of St. John, without our right to it being conceded by Maine.

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Inclosure 1 in No. 3.

*General Scott to Major-General Sir John Harvey.*

My dear Sir John,

*Augusta, Maine, March 21, 1839.*

I RECEIVED with extraordinary dispatch your noble and friendly reply, dated the 12th instant, to my semi-official note addressed to you three days before, and communicating to his Excellency Governor Fairfield, your conciliatory dispositions; we were both anxious to respond in the same spirit, without a moment's delay, but the Governor thought he could make no promise to withdraw the troops of Maine before it could be known that the Legislature would pass a resolution authorizing him to do so. It is now certain that such resolution will be adopted; and apologising for the delay that has occurred, I hasten to dispatch the official note which accompanies this, and sincerely hope that it may prove satisfactory; in that event, and very soon after hearing from you, I do not doubt that I shall have the happiness of communicating to you a certified copy of the Governor's order for the recall of his troops; should I, however, contrary to all expectation, not have it in my power to inclose such order, and promptly, I pledge myself to return you your reply without having permitted it to pass out of my hands, and without permitting a copy of it to be taken.

I have been obliged to be a little specific in the declaration I have taken the liberty to invite from you, in order that I might be equally so in the proposed declaration to be made on the part of Maine, all which may be considered as warranted by treating my note to you of the 9th instant, and your reply of the 12th, as semi-official, and as such, liable to be produced in explanation, if necessary. To this I have no objection, and hope you may feel none.

That negotiations are about to be renewed between our Governments, respecting the disputed territory, either at London or Washington, as may be preferred by Great Britain; and that a messenger recently arrived from London, has informed Mr. Fox that instructions for him were nearly ready, I certainly know through an official letter recently received from Washington.

It is probable the Governor of Maine may deem a civil posse, partly armed and partly unarmed, of (say) from 150 to 250 persons necessary, of which he would probably keep a handful at the boom across the Restook, below the mouth of the little Madawaska, on which there is much cut timber exposed, and the remainder at work on "the Restook road" on this side, although under circumstances, he cannot stipulate on the subject, I am certain that he does not intend to send any part of such posse beyond the waters of the Restook River, and that it is his intention so to employ his people in guarding the timber, as to be but little observed, and to give the least possible irritation to the population of New Brunswick. Any aid which you may be pleased to afford in securing the cut timber coming down the St. John, from the Restook district of the disputed territory, after the timber shall have arrived within your undisputed limits, although uninvited by Maine, could not be regarded by her in any unfriendly spirit.

I have ventured following out a suggestion in your note of the 12th inst., to insert in the declaration invited from you, the words "without renewed instructions from his Government," and there is a corresponding proviso in the proposed declaration to be made by Governor Fairfield. If this proviso be struck out of one declaration, it might be omitted by the other party. It is, however, not probable that new instructions would be given by your Government or the Legislature of Maine, to disturb the proposed temporary arrangement pending negotiations.

I cannot, my dear Sir, believe, if we can succeed in preventing bloodshed at present about this Boundary Question, that it will be possible to get up "a national war" between us. There is no such desire on the part of the Government or people of the United States; on the contrary, the wish to preserve peace with Great Britain is almost universal with us, and is, I am sure, reciprocated on the other side of the Atlantic.

I have had great pleasure in meeting here our old friend, Sir John Caldwell. He has done much good to both countries by his conciliatory sentiments and manners.

Long as I have delayed writing under the circumstances intimated above, I have at last to write in haste, omitting much that I had wished to say of a personal character for some early occasion.

I have, &c.,

(Signed)

WINFIELD SCOTT.

Major-General Sir John Harvey, K.C.B.,

&c.      &c.      &c.

Inclosure 2 in No. 3.

*Major-General Scott to Major-General Sir John Harvey.*

*Eastern Division, United States Army.*

*Augusta, Maine, March 21, 1839.*

THE Undersigned, a Major-General in the Army of the United States, being specially charged with maintaining the peace and safety of their entire Northern and Eastern frontier, having cause to apprehend a collision of armies between the proximate forces of New Brunswick and the State of the Maine, on the disputed territory which is claimed by both—has the honour in the sincere desire of the United States to preserve the relations of peace and amity with Great Britain—relations which might be much endangered by such untoward collision, to invite from his Excellency Major-General Sir John Harvey, Lieutenant-Governor, &c., &c., &c., a general declaration to this effect:—

That it is not the intention of the Lieutenant-Governor of Her Britannic Majesty's Province of New Brunswick, under the expected renewal of negotiations between the Cabinets of London and Washington, on the subject of the said disputed territory, without renewed instructions to that effect from His Government, to seek to take Military possession of that territory, or to seek by Military force to expel therefrom the armed civil posse, or the troops of Maine.

Should the Undersigned have the honour to be favoured with such declaration or assurance, to be by him communicated to his Excellency the Governor of the State of Maine, the Undersigned does not in the least doubt that he would be immediately and fully authorized by the Governor of Maine to communicate to his Excellency the Lieutenant-Governor of New Brunswick, a corresponding pacific declaration to this effect:—

That in the hope of a speedy and satisfactory settlement by negotiation between the Governments of the United States and Great Britain, of the principal or Boundary Question between the State of Maine and the Province of New Brunswick, it is not the intention of the Governor of Maine, without renewed instructions from the Legislature of the State, to attempt to disturb by arms the said province in the possession of the Madawaska Settlement, or to attempt to interrupt the usual communi-



cations between that province and Her Majesty's Upper Provinces: and that he is willing, in the mean time, to leave the question of possession and jurisdiction as they at present stand; that is, Great Britain holding in fact possession of a part of the said territory, and the Government of Maine denying her right to such possession; and the State of Maine holding, in fact, possession of another portion of the same territory to which Her right is denied by Great Britain.

With this understanding the Governor of Maine will, without unnecessary delay, withdraw the Military force of the State from the said disputed territory, leaving only under a Land Agent a small civil posse, armed, or unarmed, to protect the timber recently cut, and to prevent further depredations. Reciprocal assurances of the foregoing friendly character, having been through the Undersigned, interchanged all danger of a collision between the immediate parties to the controversy will be at once removed, and time allowed the United States and Great Britain to settle amicably the question of limits.

The Undersigned has much pleasure in renewing to his Excellency Major-General Sir John Harvey, the assurances of his ancient high consideration and respect.

(Signed) WINFIELD SCOTT.

*Government House, Fredericton,  
N. B., March 23, 1839.*

The Undersigned, Major-General Sir John Harvey, Lieutenant-Governor of Her Britannic Majesty's Province of New Brunswick, having received a proposition from Major-General Winfield Scott of the United States Army, of which the foregoing is a copy, hereby on his part signifies his concurrence and acquiescence therein.

Sir John Harvey renews with great pleasure to Major-General Scott, the assurances of his warmest personal consideration, regard, and respect.

(Signed) JOHN HARVEY.

THE Undersigned, Governor of Maine, in consideration of the foregoing, the exigency for calling out the troops of Maine having ceased, has no hesitation in signifying his entire acquiescence in the proposition of Major-General Scott.

The Undersigned has the honour to tender to Major-General Scott the assurances of his high respect and esteem.

(Signed) JOHN FAIRFIELD.

No. 4.

*Major-General Sir John Harvey to Lord Glenelg.—(Received April 30, 1839.)*

(Extract.)

*Woodstock, March 27, 1839.*

WITH reference to my despatch of the 23d instant, I have the highest satisfaction in transmitting to your Lordship, copies of communications which I have this morning received from Major-General Scott and the Governor of the State of Maine, by which your Lordship will find that the whole of the armed Militia force of the State of Maine has been ordered to be withdrawn forthwith from the disputed territory, and to be disbanded, under the agreement entered into between General Scott and myself, and now confirmed by the signature of Governor Fairfield, in the document of which a copy is herewith transmitted.

I offer your Lordship, and Her Majesty's Government, my congratulations upon this favourable termination of our border difficulties.

I shall now proceed to make immediate arrangements for the disbandment of the Militia and Volunteer Force, which I felt proper to assemble, and for the withdrawal of a portion of Her Majesty's troops. The conduct of both the Queen's troops and the Provincials, during this service, has been beyond all praise; and I rejoice to add the gratifying

fact, that whether owing to the salutary excitement occasioned by the inspiring nature of the service, or to whatever other cause, the whole of the force collected upon this frontier has continued remarkably healthy.

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Inclosure 1 in No. 4.

*Major-General Scott to Major-General Sir John Harvey.*

*Augusta, March 21, 1839.*

[See Inclosure 2 in No. 3, p. 165.]

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Inclosure 2 in No. 4.

## STATE OF MAINE.

### GENERAL ORDER.

*Head-Quarters, Augusta, March 25, 1839.*

THE detachment of troops from the fifth and sixth divisions, now in the service of the State, under command of Colonel Orison Ripley, and at present stationed at Augusta, will be inspected, mustered, and discharged, as follows, viz. :—

The companies of Light Infantry and Riflemen from the fifth division, on Tuesday, the 26th; the companies of Artillery, Light Infantry, and Riflemen, from the sixth division, on Wednesday, the 27th; the A, B, C, and D, Companies of Infantry, on Thursday, the 28th; and the E, F, G, and H, Companies of Infantry, together with the Field Staff Officers, on Friday, the 29th, days of March, instant. Major-General White, of the second division, is charged with the duty of inspecting and mustering the detachment aforesaid; and he will make immediate report thereof to the Adjutant-General.

The detachments will be paid by companies, at the office of the Adjutant-General, immediately after the respective musters.

In directing the discharge of the troops under the command of Colonel Ripley, the Commander-in-Chief avails himself of the occasion to express to the detachment his warm thanks for the prompt manner in which they have responded to the call made for their services, as well as for their good conduct while quartered at the Capital. The rapid progress made in discipline, during the short time they have been on duty, is highly creditable to both officers and men; and it is another evidence, that our patriotic Citizen Soldierly, while they are at all times ready to march in defence of our country's rights, also possess those qualities indispensable to the establishment of an efficient army, "good order, and subordination."

But, in deciding that the condition of our border difficulties has so changed since the Order directing the draft of militia from the fifth and sixth divisions, as to render the service of this detachment not at present necessary, the Commander-in-Chief would remind them, that, while he flatters himself with the hope, that such justice will be done to the State, in regard to our Boundary, as will render it unnecessary again to call in the aid of military powers to preserve the integrity of our soil, yet that it is the duty of every community to be prepared to protect by physical force those rights ever dear to a free people; and, although the numbers of the detachment will forthwith retire to their respective homes and fire-sides, they will recollect, that their services may again be necessary; and, should that emergency unfortunately occur, the Commander-in-Chief doubts not, that they will respond to any further call with that alacrity which has ever characterized the Militia of Maine.

By the Commander-in-Chief.

(Signed)

A. B. THOMPSON,

*Adjutant-General.*



*Head-Quarters, Eastern Division,  
Augusta, Maine, March 25, 1839.*

The foregoing Order has just been handed to me by the functionary whose signature is attached.

(Signed) WINFIELD SCOTT.

### STATE OF MAINE.

#### GENERAL ORDER.

*Head-Quarters, Augusta, March 25, 1839.*

MAJOR-GENERAL Isaac Hodsdon, commanding the military force of the State now on duty on the northern frontier, will make immediate preparation for retiring with the troops of his command from the Valley of the Aroostook; and, as soon as a suitable civil force shall have been furnished the Land Agent, to enable that officer to protect the timber, and other public property, of which due notice will be given, he will cause the detachments under his orders to return, by way of Houlton and the Aroostook road, to the city of Bangor.

By the Commander-in-Chief.

(Signed) A. B. THOMPSON,  
*Adjutant-General.*

#### No. 5.

*The Marquis of Normanby to Major-General Sir John Harvey.*

(Extract.)

*Downing Street, May 16, 1839.*

I HAVE received the despatches and the letters of the 23rd and 27th March.

Her Majesty's Government have received with much satisfaction your report of your negotiations with Major-General Scott, for the provisional adjustment of the Boundary Question, and approve and sanction the terms on which you ultimately agreed. The correspondence between yourself and that officer is honourable alike to you and to him. It is gratifying to observe that the feelings of personal esteem which were established between General Scott and yourself, when formerly opposed to each other in the field, should, after the lapse of so many years, have induced and enabled you both to concur in averting from your respective countries the calamities of war. Having laid these papers before the Queen, I have been honoured with Her Majesty's commands to signify to you her entire approbation of your conduct on this occasion.

# NORTH AMERICAN BOUNDARY.

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## PART II.

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### CORRESPONDENCE

RELATING TO THE

### BOUNDARY

BETWEEN THE

BRITISH POSSESSIONS IN NORTH AMERICA

AND THE

UNITED STATES OF AMERICA,

UNDER THE

TREATY OF 1783.

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*Presented to both Houses of Parliament by Command of Her Majesty.  
July, 1840.*

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LONDON:

PRINTED BY T. R. HARRISON.



LIST OF PAPERS.

No.	Page.
1. Viscount Palmerston to Mr. Fox .....	Foreign Office, June 3, 1840 1
Inclosures.	
1. Report of Colonel Mudge and Mr. Featherston- haugh .....	
2. Appendix to Report .....	
3. Maps A and B of Report .....	

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# CORRESPONDENCE

RELATING TO THE

## NORTH AMERICAN BOUNDARY.

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No. 1.

*Viscount Palmerston to Mr. Fox.*

Extract,

*Foreign Office, June 3, 1840.*

I SEND you herewith, three copies of the Report and Map, presented to Her Majesty's Government by Colonel Mudge and Mr. Featherstonhaugh, the Commissioners who were employed last year to survey the disputed Territory.

You will immediately transmit to Mr. Forsyth two copies of the report and of the Map, saying, that it is only within the last few days that these documents have been in the hands of Her Majesty's Government. That it will of course be the duty of Her Majesty's Government to lay this Report before Parliament; but that Her Majesty's Government wish, as a mark of courtesy and respect towards the Government of the United States, that a document, bearing upon a question of much interest and importance to the two countries, should, in the first place, be communicated to the President. You will further state that the British Government continues to feel an unabated desire to bring the long pending questions about the Boundary between the United States and the British Possessions in North America, to a final and satisfactory settlement.

It is obvious that these questions must be beset with various and considerable inherent difficulties, or they would not have remained open ever since the year 1783, notwithstanding the many and earnest endeavours made by both Governments to bring them to an adjustment.

But Her Majesty's Government do not abandon the hope, that the sincere desire which is felt by both Parties to arrive at an amicable arrangement, will at length be crowned with success.

The best clue to guide the two Governments in their future proceedings may perhaps be derived from an examination of the causes of past failure; and the most prominent among these causes has certainly been a want of correct information as to the topographical features and physical character of the district in dispute. This want of adequate information may be traced as one of the difficulties which embarrassed the Netherland Government in its endeavours to decide the points submitted to it in 1830.

It has been felt by the British Government, by the United States Government, and even by the Government of the contiguous State of Maine.

The British Government and the Government of the United States agreed therefore two years ago, that a survey of the disputed Territory, by a joint Commission, would be the measure best calculated to elucidate and solve the questions at issue.

The President accordingly proposed such a Commission, and the British Government consented to it; and it was believed by the British Government, that the general principles upon which the Commission was to be guided in its local operations, had been settled by mutual agreement, arrived at by means of a correspondence which took place between the two Governments in 1837 and 1838.



The British Government accordingly transmitted in April of last year, for the consideration of the President, the Draft of a Convention to regulate the proceedings of the proposed Commission.

The Preamble of that Draft recited textually, the agreement which had been come to, by means of notes which had been exchanged between the two Governments; and the articles of the Draft were framed, as Her Majesty's Government considered, in strict conformity with that agreement.

But the Government of the United States did not think proper to assent to the Convention so proposed.

That Government did not, indeed, allege that the proposed Convention was at variance with the result of the previous correspondence between the two Governments; but it thought that Convention would establish a joint Commission "of mere exploration and survey," and the President was of opinion that the step next to be taken by the two Governments, ought to bear upon its face stipulations which must necessarily lead to a final settlement under some form or other, and within a reasonable time. The United States' Government accordingly sent to you, for transmission to Her Majesty's Government, a counter Draft of Convention varying considerably, as Mr. Forsyth admitted, in some parts from the Draft as proposed by Her Majesty's Government. But Mr. Forsyth added, that the United States' Government did not deem it necessary to comment upon the alterations so made, as the text of the counter Draft would be found sufficiently perspicuous.

Her Majesty's Government certainly might have expected that some reasons would have been given, to explain why the United States' Government declined to confirm an arrangement which was founded on propositions made by that Government itself, and upon modifications to which that Government had agreed; or that, if the American Government thought that the Draft of Convention thus proposed to it, was not in conformity with the previous agreement, it would have pointed out in what respect the two differed.

Her Majesty's Government, however, in the present state of this question, concur with the Government of the United States in thinking that it is on every account expedient that the next measure to be taken by the two Governments should contain, in its details, arrangements which should necessarily lead to some final settlement; but they think that the Convention which they proposed last year to the President, instead of being framed so as to constitute a mere Commission of Exploration and Survey, did, on the contrary, contain stipulations calculated to lead to the final ascertainment of the boundary which is to be determined.

There was, however, undoubtedly an essential difference between the British Draft and the American counter Draft. The British Draft contained no provision embodying the principle of arbitration. The American counter Draft did contain such a provision.

The British Draft contained no provision for arbitration, because the principle of arbitration had not been proposed on either side during the negotiations upon which that Draft was founded, and because, moreover, it was understood at that time that the principle of arbitration would be decidedly objected to by the United States.

But as the United States' Government have expressed a wish to embody that principle in the proposed Convention, the British Government is perfectly willing to accede to that wish. You are therefore instructed to state to Mr. Forsyth that Her Majesty's Government consent to the two principles which form the main foundation of the American counter Draft; namely, first, that the Commission to be appointed should be so constituted as necessarily to lead to a final settlement of the questions at issue between the two countries; and secondly, that in order to secure such a result, the Convention by which the Commission is to be created should contain a provision for arbitration upon points as to which the British and American Commissioners may not be able to agree.

You will, at the same time, say that there are some matters of detail in the American counter Draft which Her Majesty's Government could not adopt, but that you will, by a very early opportunity, receive an amended Draft to be submitted to the consideration of the President; and that you will, at the same time, be instructed to propose to the President a local and temporary arrangement, for the purpose of preventing collisions within the limits of the disputed territory.

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INCLOSURE.

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REPORT of the British Commissioners appointed to Survey the  
Territory in dispute, between Great Britain and the United  
States of America, on the North-Eastern Boundary of the  
United States; with an Appendix.





## TABLE OF CONTENTS.

### REPORT.—Page 7 to 57.

Page 7. Points on which the Commissioners are instructed to Report.  
Description of Maps A. and B. appended to the Report.

### REVIEW OF THE DOCUMENTARY AND OTHER EVIDENCE BEARING ON THE QUESTION OF ANCIENT BOUNDARIES, PREVIOUSLY TO THE TREATY OF 1783.—Page 9 to 37.

- 9 to 11. Reasons for commencing the Report, with a review of the documentary and other evidence bearing on the question of ancient boundaries previously to the Treaty of 1783.
11. Grant of King James the First to Sir W. Alexander, in 1621.  
First adventurers in Canada and Nova Scotia from 1518 to 1604.
12. Grant to the New Plymouth Company by James the First, in 1606.  
Further reference to the grant to Sir W. Alexander.  
Origin of the name "Acadie;" and instances of its being given to different districts at different epochs.  
"Acadie" ceded to Great Britain by the Treaty of Utrecht, in 1713.
13. Conquest of all the French possessions in North America in the war of 1756; and annexation of them to the British empire.  
Definition of the most ancient limits of "Acadie."
14. Examination of the claim of Massachusetts;—under the grant of 1621;—and under the charter of William and Mary, in 1691.
- 14 & 15. The Lands of Sagadahoc, granted by Charles the Second to the Duke of York, in 1664; but annulled by the restoration of Sagadahoc to France, in 1697;—and admitted to have been so by the American statement,—p. 14.
15. Question examined as to the ancient northern boundary of Sagadahoc.  
Grant of Maine by Charles the First to Sir F. Gorges, in 1639.  
Maine purchased by Massachusetts, in 1677.
16. Grant of Sagadahoc by Charles the First to the Duke of York, renewed in 1674.  
Reason for the renewal,—stated erroneously by the Americans in their Statement, p. 13,—explanation of the true reason.
17. Examination of the objections to the claim of Massachusetts to go to the St. Lawrence;—claim not authorized by the charter of William and Mary, of 1691;—opinion of Mr. Gallatin to the same effect;—opinion of the law officers of the crown, in 1731, not applicable to the question.
18. Opinion of Mr. Jasper Manduit, Agent in London, of the General Court of Massachusetts, in 1764.  
North boundary of Massachusetts not settled in 1764.  
Exclusive possession and jurisdiction of Great Britain over all the disputed territory, from the Peace of Utrecht, in 1713, to the present time.
19. No change in the ancient boundaries of the revolted colonies made by Great Britain in the Treaty of 1783.  
Proposition of the Congress of the revolted colonies, in 1779, to make the St. John, from its source to its mouth, the north-east boundary of the United States.
20. The same proposition made by the American Negotiators, in 1782; but rejected by the British Government.  
The proposition abandoned, and the River St. Croix substituted by the American Negotiators.  
Testimony of Mr. John Adams hereupon.  
Article II. of Treaty of 1783, defining the Boundary.
21. Early notices of the Highlands of the Treaty of 1783.  
Meaning of the word "Quebec."  
Route by canoes from Quebec to the St. Croix, as performed by the Indians.
22. Letters from Governor Temple in 1668, showing that the route was known before that time.
- 22 & 23. Topographical description of America by Governor Pownall, from information acquired in 1755.
- 23 & 24. Royal Proclamation of the Southern Boundary of Quebec, 1763; which is plainly taken from Pownall's description; and the Highlands, therefore, are those from which the St. Francis and Chaudière flow to the St. Lawrence, and from which the Connecticut, the Kennebee, and the Penobscot into the Atlantic.
24. The branches of the Penobscot extend from west to east, nearly along the whole southern face of the Disputed Territory.  
Reference to Jackson and Flint's purchase from Massachusetts in 1792, of lands bounded on the north by the Highlands of the Treaty of 1783.
- 24 & 25. Evidence furnished by Greenleaf's Map, and his Statistical View of the District of Maine in 1816, that the Boundary of the same purchase were not further north than the Highlands at the sources of the Penobscot.
25. The Southern Boundary of the Province of Quebec, was intended to cover all Canadian Settlements.  
Quebec Act of 14th Geo. III., 1774.



- Page 25. Commission of Montague Wilmot, 1763.  
Massachusetts has never acquired any title to lands north of 46° N. lat.
26. Impossibility of executing the 2nd Article of the Treaty of 1783, without first agreeing upon the Highlands.  
Difficulties appertaining to each of the two Lines, whose junction is to form the north-west angle.
27. Review of an Extract in the original Latin from the Grant of Nova Scotia in 1621.  
Literal translation of the same Extract.  
Reference to Map A, with reference to a new construction of the description of the Boundary, as it stands in that translation.
29. Uncertainty at what time the error in extending, on maps, the North Line as far as the St. Lawrence, first occurred; but it must have been subsequently to 1689.  
Remarkable errors in Mitchell's maps.  
Error in the American translation of the Grant of Nova Scotia of 1621.
31. Yet that translation was an official one.  
First introduction of the term "due North Line," in the Commission of Montague Wilmot, Esq., in 1763.
32. Probable reasons for the insertion of the words "due north Line," in the 2nd Article of the Treaty of 1783.
- 32 & 33. Inconsistency of the American Government in abandoning the St. John as a Boundary in 1782, and in claiming, in our own times, the Boundary beyond the St. John, to which they now pretend.
33. Reason why there was no mention of the River St. John in the Treaty.
- 33 & 34. North-west angle of Nova Scotia. Opinion of the American Statesman, Mr. Sullivan, in 1794, that the north-west angle of the Treaty had no existence.
35. Treaty of 1794, for the identification of the St. Croix.
- 35 & 36. Error of the Commission, under that Treaty, in fixing the point of departure of the due North Line too far to the East. It ought to have been at the head of the River Scoodeag, or St. Croix, and not of the Cheputnaticook. Meaning of the word Scoodeag.
36. Explanatory Article in 1798, to release the Commissioners from a strict compliance with certain stipulations of the Treaty of 1783.
- 36 & 37. The true source of the St. Croix is at the head of the north-westernmost branch; and the Treaty of 1783, cannot be faithfully executed without commencing the due North Line at that point.

#### PHYSICAL GEOGRAPHY OF THE COUNTRY.—Page 36 to 49.

37. The line of the Atlantic Coast in North America, influenced by the direction of the Rock Strata.  
The course of the River St. Lawrence conforms to the direction of the Strata.  
Retreat in ancient times of the waters in North America, from higher levels.
38. The Strata on each side of the St. Lawrence once united.  
The alluvial border on the right bank of the St. Lawrence, the ancient bed of the river.  
Surface of the country in the disputed territory modified by the passage of powerful currents.  
Greenleaf's description of the elevated district in Maine, 1816.  
His description agrees with the Highlands of the Treaty.
39. Description of the ridges in the disputed territory.  
One of the ridges is identical with the "height of land" of Pownall, and the Highlands of the Royal Proclamation of 1763.
40. And forms a part of the axis of maximum elevation.  
It passes south of the Roostuc River to the St. John;  
And, from the valley of the St. John eastward to the Bay of Chaleurs.  
This axis of maximum elevation is therefore the true Highlands of the Treaty of 1783.
41. Description of the Highlands claimed by the United States as the Highlands of the Treaty of 1783.  
The American Highlands do not divide rivers flowing in opposite directions.
42. The American Highlands do not run to the head waters of the Connecticut River.  
Spurious topography presented by American surveyors.  
Of which the proofs are to be found in the first statement on the part of Great Britain, p. 148.
43. American Commissioner refuses to consent to a fictitious map being taken off the files.  
Fallacy of Mr. Johnson's map exposed by the joint survey of Mr. Burnham and Dr. Tiarks.  
Attempt of the American Commissioner to change the principle of his argument: vide first statement on the part of Great Britain, p. 154.
44. Another spurious map offered to the Commissioners by the American agent.  
Protested against by the British agent, and challenged by him to be proved under oath. First statement on the part of Great Britain, p. 158.  
American Commissioner withholds his consent to have the surveyors examined under oath.  
Recapitulation of the conduct of the agents of the United States.

- Page 45. The British map of Dr. Tiarks excluded from the files.  
 The Highlands laid down on the American maps from the southern source of the Ouelle, to the easternmost source of the Metjarmette, are now found, upon an examination of the country, to be fictitious  
 Proceedings of the American surveyors in relation to their assumed north-west angle of Nova Scotia.  
 The American Agents have never examined the country where they claim their Highlands to be.
46. Survey of the Commissioners of Maine in 1838.  
 Admission made by the Governor of Maine in his annual address to the Legislature, dated January 2, 1839, that the Americans had never examined their own line.  
 Commissioners of Maine instructed, in 1838, to examine their Highlands.  
 Report of the Maine Commissioners of 1838, as described by Governor Kent.  
 Their north-west angle of Nova Scotia stated to be from 2,000 to 3,000 feet above the sea.
47. Language of the Report itself, of the Maine Commissioners of 1838.  
 The Commissioners of Maine turn back without examining their Highlands.  
 Examinations of Governor Kent's assertion that the pretended north-west angle at the Metis is from 2,000 to 3,000 feet above the level of the sea.  
 True height of the American north-west angle of Nova Scotia, not quite 400 feet.
48. Explanation of the probable basis of the erroneous computation of the Maine Commissioners respecting the elevation of their north-west angle of Nova Scotia.
49. Cause of the error of 2,150 feet, in the estimate of the American Agents.

REVIEW OF SOME OF THE RESULTS OF THE PRECEDING PAGES.—Page 50 to 52.

50. Review of some of the results of the preceding pages.  
 The Pief of Madawasca was granted in 1683, eight years before the date of the Charter of Massachussets, in 1691.  
 The due North Line run, in 1817 and in 1818, was only an exploratory one, not intended to bind the parties.  
 Encroachment of the United States at Houlton.
51. Impossibility of executing the award of the King of the Netherlands, shown by the features of the country now ascertained.  
 Maps originating in a state of war, no evidence of property in the countries they represent.

GENERAL SUMMARY OF THE RESULTS SHOWN IN THE PRECEEDING PAGES OF THIS REPORT.—Page 53 to 56.

CONCLUSION.—Page 56 and 57.

APPENDIX.

Record of barometric observations, made on the line of the maximum axis of elevation, from the head waters of the Penobscot and St. John's Rivers to the Bay of Chaleurs, for determining the approximate heights of land.

MAPS, A and B.





## REPORT.

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My Lord,

*Foreign Office, April 16, 1840.*

IN obedience to your Lordship's instructions, dated July 9th, 1839, requiring us to proceed to Her Majesty's Province of New Brunswick, for the purpose of making investigations respecting the "nature and configuration of the territory in dispute," between Her Majesty's Government and the Government of the United States of America, and to "report" which of the three following lines presents the best defined continuity of Highland range:—

"*First.*—The line claimed by the British Commissioners from the source of the Chaudière to Mars' Hill.

Points in the instructions to the Commissioners.

"*Secondly.*—The line from the source of the Chaudière to the point at which a line drawn from that source to the western extremity of the Bay of Chaleurs, intercepts the due north line.

"*Thirdly.*—The line claimed by the Americans from the source of the Chaudière to the point at which they make the due north line end."

We have the honour to present the following Report of our Proceedings, and of the results which we have arrived at, accompanied with a map marked A, of the territory in dispute, and of the countries adjacent to it, together with a sheet marked B, of extracts from other maps, and containing a section and a sketch, all of which are alluded to in this Report. The map A is adjusted according to the most recent observations for latitude and longitude; and is illustrated in as accurate and detailed a manner as the short period of time allotted for the service we have been employed upon admitted of, by a faithful delineation of the physical geography of all that portion of North America to which this important Question relates, which lies south of the River of St. Lawrence. Upon this map will be found delineated the sources and course of the rivers, as well as the Highlands mentioned in the Second Article of the Treaty of Peace of 1783, to wit, "the Highlands which divide those rivers that empty themselves into the River St. Lawrence, from those which fall into the Atlantic Ocean, to the north-westernmost head of Connecticut River." Also the sources and course of the minor streams running into the River St. Lawrence, and lying north of the River St. John, between 67° 48' and 71° west longitude. To all those natural features of the country, we have added and have placed upon the face of the map, in their respective localities, numerous barometrical altitudes, carefully taken, along the great Axis of Elevation, extending from the Bay of Chaleurs to the Highlands which separate the sources of the Chaudière River and the western branches of the St. John's River, from the western sources of the Penobscot River.

Descriptions of maps A & B appended to the Report.

We have to ask your Lordship's attention to the fact, that, upon reaching the scene of our operations, we learnt, that they were to be carried on in a wilderness, where not a human being was to be met with, with the exception of a few settlers upon the Roostuc River, about forty miles west of the St. John's River, and of a few wandering Indians employed in the chase, or occa-



sionally, of some American lumberers; and that our endeavours to procure from any quarter, correct topographical information of the interior of the disputed territory were unavailing, the most superficial and contradictory opinions being entertained upon the frontiers as to the sources of the streams, and as to the direction in which it would be most advisable to push our investigations, with a due regard to that economy of time which we were compelled to observe. This wilderness, thus situated, had never, we believe, been crossed in the direction it was necessary for us to take, by persons capable of describing the country with anything approaching to accuracy; and, consequently, all the maps which we had seen, proved in the end remarkably defective. Indeed, had we not been so fortunate as to engage in our service two intelligent Indians, who had become somewhat familiar with the country, by having frequently made it the scene of their hunting grounds, and whose rude maps traced upon sheets of the bark of the birch tree served often to guide us, a great portion of our time might have been lost in cutting our communications through forests and almost-impenetrable swamps, upon injudicious courses, for the purpose of transporting our provisions, instruments, and canoes. Thus engaged, we had not only to keep in view the main object of your Lordship's instructions, but to bring the general topography of the country into a more accurate form, in order that the map to be made, to accompany this Report, might be an intelligent exponent of the physical geography of the country. This became an important branch of our undertaking, which had to be applied to the whole area between the Bay of Chaleurs and the south-western sources of the St. John; from thence, north-westwardly to the Highlands claimed by the United States as the Highlands of the Treaty of 1783, in  $46^{\circ} 27'$ ; and eastwardly, from thence, at various points of the Highlands thus claimed by the United States, as far as the waters running into Lake Metis, in north latitude  $48^{\circ}$ . This last point was reached at the setting in of the winter season; and the party on that service had but just completed their observations, when they were compelled to hasten to the coast by very rigorous weather, ice having formed on the lakes and streams.

We have troubled your Lordship with these remarks and incidents, not for the purpose of showing that our duty was accompanied with a greater degree of personal inconvenience than was contemplated by us on accepting the charge we have been honoured with, but to account, in some measure, for the delay in the sending in of our Report. Your Lordship will please further to understand, that after our return to Fredericton, in New Brunswick, with the various information acquired under such circumstances as we have described, a great part of that information had to be applied to such Surveys of the northern parts of the Province of New Brunswick as existed in the Crown Land Office at Fredericton, in such manner as that, by transferring the results of our labours to the accurate outlines of the official surveys, a map worthy of the public confidence might be constructed; and that in consequence of its being enjoined upon us in our instructions, to return to England when the season should no longer permit us to continue our operations, we entrusted the task of filling up the outlines of the official surveys, to an intelligent person belonging to the Crown Land Office, who had been in our service in the capacity of Surveyor and Commissary;\* but the final result of his labours, owing to circumstances beyond his controul, and to adverse winds, arrived in England a month later than the period it was expected, and it has been only by using unremitting diligence, that we have been able to prepare the comprehensive map herewith submitted with this Report.

Before we enter upon a description of the physical geography of the disputed territory, we deem it important to call your Lordship's attention to the reasons which have induced us to defer the consideration of that portion of our Report, until we have brought under your observation other matters, the previous and well understanding of which, appears necessary to the perfect illustration of the true intent and meaning of the II<sup>nd</sup> Article of the Treaty of 1783; which Article we find no difficulty in reconciling with the natural features of the country.

\* Mr. John Wilkinson.

REVIEW OF THE DOCUMENTARY AND OTHER EVIDENCE BEARING ON THE QUESTION OF ANCIENT BOUNDARIES, PREVIOUSLY TO THE TREATY OF 1783.

Having found the physical geography of the disputed territory very much at variance with all the accounts of it to which we had had access, and perceiving that the popular opinions regarding it both in Great Britain and in the United States of America, owed their origin to the previous surveys and negotiations respecting the Boundary Question, some of which surveys we found singularly at variance with our own careful observations made on the spot, as to the heights of some leading points of the country, of vital importance to the question; we came to the conclusion, that the most significant of those previous estimates, and which were connected with important inferences, were conjecturally made, without knowledge of the truth, and that thus very incorrect statements had been submitted to the judgment of the Sovereign Arbiter, to whom, under the Convention of the 29th of September, 1827, those previous surveys were to be referred. We shall, in the course of this Report, point out to your Lordship these inaccuracies in a more specific manner.

Erroneous estimates of heights made during the Survey of 1817, 1818.

Alive to the important bearing of this somewhat unexpected state of things, it became necessary for us immediately upon our arrival in England, to enter upon a more careful study of the diplomatic history of the dispute; in which was to be found those arguments which had been raised upon the erroneous statements we have alluded to, and which had taken so strong a hold upon the public mind in the United States of America.

The assumption consequent hereupon which is entertained in that country, that a particular range of Highlands north of the St. John's River, and running parallel with, and at no great distance from, the St. Lawrence, is the range of Highlands intended by the Treaty of 1783, seemed to have suggested to the Official Agents, employed by the American Government under the Vth Article of the Treaty of Ghent, the necessity of maintaining that the boundary proposed by the Treaty of 1783, was identical with the ancient provincial boundary between the Province of Quebec and Her Majesty's Province of Nova Scotia. This assertion, which appeared to derive plausibility from Mitchell's map,—a document admitted to have been much consulted by the Commissioners of both Governments at the negotiations which ended in the Treaty of 1783,—induced the British Official Agents, under the Treaty of Ghent, to take the opposite line, and to insist that the assertion was "altogether conjectural and incapable of satisfactory proof."

The voluminous conflicting documents which this point gave rise to, show how much the British Official Agents were misled by the general ignorance which existed of the interior parts of the territory in dispute. They were right in denying that the ancient provincial boundary was identical with the range of Highlands claimed on the part of the United States; but they were wrong in denying that the line of demarcation established by the ancient provincial boundary, was intimately connected with the boundary intended by the IIInd Article of the Treaty of 1783.

Second British Statement, p. 24.

When the American Agents asserted that the Treaty line and the ancient provincial boundary were identical, and when the British Agents denied that they were so, both Parties placed the question at issue upon grounds dangerous to their respective claims; for if it had been known that a range of Highlands corresponding with the terms of the Treaty, existed in a part of the territory which neither of the parties had examined, namely, south of the St. John, and lying in that oblique direction between the sources of the Chaudière and the Bay of Chaleurs, in which ran the line of demarcation of the ancient provincial boundary, the Americans would never have made their assertion; but, on the contrary, would probably have changed arguments with our own Commissioner and Agents. The United States are, however, committed, by the case which they laid before His Majesty the King of the Netherlands, to their assertion of the identity of the ancient provincial boundary with the line described in the IIInd Article of the Treaty



Public attention exclusively given to the American claim.

of 1783. But it is probable that a better knowledge of the interior of the disputed territory, than existed at the time of the submission of the case to His Majesty the King of the Netherlands, now obtains in the United States. Of this we had indications on our arrival in America, in August, 1839, when some of the American newspapers called loudly upon us to proceed to examine the line of Highlands claimed by them; and this, no doubt, with the view of drawing our attention from those parts of the country west of the St. John which lie along the eastern and western sources of the Penobscot. And the same newspapers at the termination of our labours, exhibited in not very courteous terms, their dissatisfaction with the course we had pursued, misrepresenting all our proceedings, denying that we had visited the line claimed by them, and insisting that if we had done so, we should have been compelled to report in favour of it. We relate these circumstances to your Lordship, to show that the very sanguine and almost universal opinion which obtains in the United States, and which has been so generally expressed there, in favour of the boundary line being to be found so near to the St. Lawrence, has been partly occasioned by the true line of boundary never having been practically examined, and of no report having been made in detail of its true nature; whilst the past surveys and negotiations, as well as the public attention in both countries, have been almost exclusively directed to the line brought forward by the Americans as the boundary intended by the Treaty of 1783. For although Mars' Hill was with great colour of justice proposed by the British Official Agents, as a point in that range of Highlands\*, at which the due north line should stop, in order to form the north-west angle of Nova Scotia, still no line "along the Highlands," had been surveyed or practically examined in a western direction from thence. The argument thus came conjecturally before the King of the Netherlands, and was left still more impotent by the denial, on our side, of any connection between the ancient provincial boundary and the line described in the II<sup>nd</sup> Article of the Treaty of 1783.

We have to remark, also, as a proof of the mistaken notions entertained in the United States, respecting their supposed Highlands, that if we, in accordance with their wishes, had confined our investigations to the line claimed by them, we should have come at once to the conclusion at which, on making it the last branch of our investigations, we have actually arrived, namely, that that line is deficient in every essential character requisite to make it conformable with the description of the boundary intended by the Treaty of 1783. Believing that they never would have invited us to expose the defects of the line claimed by them, if they had been aware of those defects, we must infer that they themselves, with some few exceptions, are without any practical knowledge of the real character of the line of boundary which they insist upon, some striking proofs of which we propose hereafter to adduce.

The arguments used consequent upon the Survey directed by the Treaty of Ghent, inapplicable to our present information of the country.

Your Lordship will gather, from what we have now stated, that the arguments found in the records of the past surveys and negotiations are, to a great extent, to be considered as inapplicable to the actual knowledge of the country, as ascertained by a careful investigation of it made by persons acquainted with the previous history of this territorial dispute. Notwithstanding the acknowledged ability, the unwearied industry, and integrity of the British Official Agents, whose labours are found in those records, the want of geographical information, and the ground taken by the Americans at the time, unavoidably led them to espouse and maintain many points, which it would be inconsistent in us to give countenance to. Hence, as we before have had the honour to state to your Lordship, we have found ourselves compelled, since our return to England, not only to examine a second time the diplomatic history of this dispute, but also to consult all those ancient documents which have been accessible to us, that are in any manner connected with the very important subject on which we are engaged.

We close these preliminary remarks by stating, that under these circum-

\* On ascending the River St. John from Woodstock, the gradual rise of the country is evident; and several miles before the traveller arrives at the stream called Des Chutes, he perceives that he is about to pass through a range of Highlands.

stances, it has appeared to us, that such a lucid exposition of the Boundary case as would be deemed useful and satisfactory by your Lordship, would be best made, by first reviewing, in a brief manner, the history of that part of North America connected with the disputed territory, with a view to discover how far the ancient descriptions of territorial demarcations therein coincide with the Boundary intended to be established for the United States, by the Second Article of the Treaty of 1783; and by then proceeding to a description of the physical geography of the country, and to an investigation of the three geographical lines, upon which we are required, by your Lordship's instructions, to report.

In doing this, we shall have to make a somewhat critical examination of the ancient Boundary of Nova Scotia, as described in the Grant of King James the First to Sir William Alexander, dated 10th of September, 1621. It will be seen from this examination, that reasonable grounds exist for supposing, that a singular perversion of the terms used in the description of that Boundary has long existed, and that the line of Boundary intended by the Grant of Nova Scotia, is so much at variance with that which has usually appeared on the greater number of maps, as entirely to change the nature of the Northern Boundary of the United States, from that which has hitherto been understood to be its direction.

It will be very satisfactory to us, if we shall be able to satisfy your Lordship, that there are reasonable grounds for thinking, that the true line of Boundary has been hitherto overlooked; and that, consequently, the line claimed by the State of Maine fails, upon examination, in every essential particular.

We preface this part of the subject with some notices which seem to be called for, of the periods when the earliest European adventurers began to frequent, and settle in, the countries contiguous to the St. Lawrence River and the Bay of Fundy, first called La Baie Française.

In 1506, Jean Denys de Honfleur published a map of Newfoundland.

In 1518, Baron Lery de Saint Just landed cattle at Isle du Sable.

In 1535, Jacques Cartier took possession of the country on the Saint Lawrence, and built a fort.

In 1540, the Sieur de Roberval commissioned Lieutenant-Governor for "les terres neuves de Canada, Hochelaga, Laguenay, et autres."

In 1541, Jacques Cartier fortified Cape Breton.

In 1598, the Sieur de la Roche appointed "Lieutenant-Général en Canada, Hochelaga, Terre-Neuve, Labrador, Rivière de la Grande Baie (Saint John's, in the Bay of Fundy), Norembegue (the present State of Maine), et les terres adjacentes." His people subsisted on the cattle left eighty years before on Isle du Sable.

In 1603, the Sieur de Monts received letters patent, in which the word "*Acadie*" is first used as the name of the country. His grant is from "le 40me. degré de latitude jusqu'au 46me."

In 1604, the Sieur de Monts, with Champlain and Poitrincourt, established themselves, during a winter, on a small island in Passamaquoddy River which island they named "Sainte Croix, et ce nom s'est ensuite communiqué à la rivière\*."

Examination proposed of the western boundary of the Grant of Nova Scotia in 1621.

First adventurers in Canada and Nova Scotia.

Fastes chronologiques, p. 13.  
Do. p. 21.

Do. p. 21.

L'Escarbot p. 408.  
Do. p. 401.

Do. p. 408.

Do. p. 417.

Do. p. 441.

\* L'Escarbot in his *Histoire de la Nouvelle France*, describes Passamaquoddy Bay, the Island of St. Croix, where De Monts wintered, and the aspect of the adjacent country, with sufficient accuracy, as we had occasion to observe in our visit there at the close of the year 1839. There ought not to have been much difficulty in identifying the "true St. Croix," under the Treaty of 1794. L'Escarbot says, "Quittans la Rivière St. Jean, ils vinrent suivant la côte à vingt lieues de là, en une grande Rivière (qui est proprement mer) où ils se campèrent en une petite isle au milieu d'icelle." Passamaquoddy Bay is exactly twenty leagues from the River St. John. It has been asserted, that it was difficult to identify the St. Croix of De Monts, it having received its name from the ceremony usually practised by French adventurers, of planting a cross where they landed. But in an ancient map by L'Escarbot, from which our Extract No. 4 of Map B. is taken, various places are marked with a cross, thus †; but the true St. Croix is not so marked, and another reason is given for its name. After describing the Bay, he says: "Et d'autant qu'à deux lieues au-dessus, il y a des ruisseaux qui viennent comme en croix se décharger dans ce large bras de mer, cette isle de la retraite des Français fut appelée Sainte Croix." Accordingly, he gives to the river in his map the rude form of a cross, and designates the small island upon which they wintered, and where the remains of the encampment have since been found. It is deserving also of remark, that upon the same map, appear hills, apparently intended to represent ridges: the northern one being placed to the north of the sources of the waters that flow into the St. Lawrence, and the southern one being placed in a direction to divide the waters flowing in opposite directions.—Vide *L'Escarbot*, 1618, pp. 446, 447.

Map by L'Escarbot. Vide extract No. 4 of map B.



L'Escarbot, p. 545.

In 1606, Poitrin court carried l'Escarbot into North America with him.

Grant to the New  
Plymouth Colony,  
1606.

By these dates, we learn, that the French, from the year 1518 to 1604, had taken possession of the country, both on the River St. Lawrence, and on the River St. Croix, in the Bay of Fundy. Whereas it was only in the year 1606, that James the First made a grant to the New Plymouth Company, from the 34th to the 45th degree of north latitude, "provided "it was not occupied by any Christian Power." At this time, the French were cutting down timber, sowing grain, planting vines, &c., at various points between the Kennebec and the St. Croix Rivers.

Western boundary  
of the grant of  
1621, suggested by  
a practical  
knowledge of the  
country.

We introduce these comparative dates also to show, that the French occupied the country many years before James the First made his grant, in 1621, to Sir William Alexander; and that the description of the Boundary of Nova Scotia found in that grant, is to be taken not as vague and conjectural, but is to be taken as the description of a line of boundary of which some previous knowledge existed, and most probably by means of the commerce in Peltries carried on with the Indians of the country lying between the St. Lawrence and the Bay of Fundy.

The obscurity which has been thrown in past times over the territorial extent of Acadie, that country of which De Monts received letters patent in 1603, was occasioned by not attending to the Indian origin of the name, and to the repeated transfer of the name to other parts of the country to which the first settlers afterwards removed. Even before the appointment of De la Roche in 1598, as Lieutenant-General of the country, including those parts adjacent to the Bay of Fundy, the bay into which the St. Croix empties itself, was known by the Indians of the Morriseet tribe, which still inhabits New Brunswick, by the name of Peskadumquodiah, from *Peskadum*, Fish, and *Quodiah*, the name of a fish resembling the cod.\*

Origin of the word  
"Acadie."

The French, according to their usual custom, abbreviated the Indian name, which we sometimes, in the old records, read *Quadiac* and "Cadie," and at length we find it taking the general designation of "Acadie."

The English race, have turned the original Indian name, into *Passam-aquoddy*, and the Indians of the district have long been by them familiarly called Quoddy Indians, as, by the French, they have been called *Les Acadiens*. To this day, the Morriseet Indians call the Bay by its original Indian name of Peskadumquodiah.

Map by Coronelli,  
dated 1689.  
*Vide Extract*  
No. 3, of Map B.

But De Monts, finding the position he had selected to winter in bleak and inconvenient, and very inferior to Port Royal (now Annapolis Royal), abandoned the St. Croix, and made a permanent settlement at Port Royal. The Peninsula, south-east of the Bay of Fundy, where this Port is, began thenceforward to be called "Acadie," and so continued to be known as late as 1689; for in an ancient map by *Coronelli*, Cosmographer to the Republic of Venice, and published at Paris, we find the Peninsula called "*Acadie*," whilst the country north of the Bay of Fundy, and watered by the St. John's River, is called "*Etechemins*."† Under the French these were frequently separate Governments; but during the constant wars carried on with the English, the possessions of France, including Canada, and all the country lying eastward of the British Colonies, were frequently occupied by the English, and afterwards again restored to France; as for instance, by the Treaty of St. Germain, in 1632, when "Canada and Acadia" were restored; by the Treaty of Breda, in 1667, when France was left with all her old possessions; and by the Treaty of Ryswick, in 1697, when a general restoration was made. The consequence of these frequent mutations was, that the French possessions, east, west, and south of the St. John's, were occasionally placed under one and the same jurisdiction, which for the time went by the name of "Acadie." The confusion thus produced in the ancient maps and records, was increased by a grant from the French Crown, of the country from the southern end of the Gut of Canso to the mouth of the Saint Lawrence, under the name of "Acadie."

Treaty of St. Ger-  
main, 1632.  
Treaty of Breda,  
1667.  
Treaty of Ryswick,  
1697.  
Many tracts of  
country receiving  
the name of  
"Acadie."

Treaty of Utrecht,  
1713, cession of  
"Acadie" to  
England.

In 1702, war broke out again, subsequently to which came the Peace of Utrecht, in 1713, when France ceded to England for ever her rights to "all Acadie, according to its ancient limits." The misunderstandings which now

\* The provincial name of this fish is Pollock, and it still continues to frequent that bay.

† Vide Map B, No. 3.

arose in the construction of this expression, ended in the war of 1756, and the annexation of all the possessions of France in North America to the British Empire.

Conquest of  
Canada.

We have entered into this brief historical sketch, to draw your Lordship's attention to the fact, that the most ancient limits of Acadie are those described in the letters patent to De Monts in 1603, from the fortieth to the *forty-sixth degree of north latitude*; and that this parallel, when protracted through the disputed territory to the west, passes through the Highlands at the very point where they divide the sources of the Chaudière from the most western waters of the Penobscot. That these same Highlands continued from thence running south of the River St. John, in a north-east direction, as far as the western termination of the Bay of Chaleurs, appears to have been known at an early period. In proof of this, there is in the British Museum a map of Coronelli published in Paris, 1689, where the course of these Highlands is obviously laid down as a natural boundary line betwixt Canada and the British colonies; for the line is protracted the whole distance from the Bay of Chaleurs, in a south-west direction, as far as the Colony of Virginia, and separates the possessions respectively held by the English and French. Every thing to the north of that line is coloured yellow, and every thing to the south of it, including the Peninsula where Annapolis is, is coloured a light green. The distance upon this map of the most north-western branch of the Penobscot from the St. Lawrence, as well as the mean distance of the whole divisional line, and of its termination at the Bay of Chaleurs, is 100 miles by scale. This line represents with great fidelity, the position and course of the boundary line described in the II<sup>nd</sup> Article of the Treaty of 1783, and is identical with the boundary line of the Royal Proclamation of 1763.\*

Definition of the  
ancient limits of  
"Acadie."

Another Map by  
Coronelli, dated  
1689.

Vide *Extract*  
No. 8, of *Map B*.

We also find proofs in various concessions made by the Crown of France in ancient times, that all its grants made further to the north than the limits of the patent of De Monts, were placed within the jurisdiction of the castle of St. Louis at Quebec; from whence the inference may be fairly drawn, that the country, north of the 46th parallel, was considered at all times to be within the jurisdiction of Quebec. We shall quote a passage from one of these grants, before we enter upon this branch of the subject in more detail.

"Concession de M. de la Barre, Gouverneur de Canada, et M. de Meules, Intendant de la Nouvelle France, à Renes d'Amours, Sieur de Aignancourt, de terres à la Rivière de Saint Jean, près de Medoctet, du 20 Septembre, 1684."

Concession of the  
Fief of Meductic,  
1684.

The fief of Meductic thus conceded, lies north of the forty-sixth parallel of north latitude, and the feoffee is bound in the grant to bear "foi et homage à Sa Majesté, au Chateau de St. Louis de cette ville. Donné à Quebec, le 20 Septembre, 1684."

Having established this point, we wish to advert to the pretensions set up at various periods, to a right which Massachusetts has been alleged to have had before the Peace of 1763, to extend her jurisdiction to the St. Lawrence River.

Claim of Massa-  
chusetts to go to  
the St. Lawrence.

Upon Mitchell's map we find a *due north line*, carried out from the head waters of the St. Croix to the River St. Lawrence, and intersecting it a few minutes to the east of the sixty-seventh degree of west longitude; and it has been argued in America†, that if the Royal Proclamation of 1763 had not extended the jurisdiction of the Province of Quebec, south of the River Saint Lawrence, the north-west angle of Nova Scotia would have been at the point of this intersection. In answer to this, it may be sufficient to observe, as has been briefly noted at page 12, that when James the First granted the Province of Nova Scotia, in 1621, to an English subject, the same country had been already conceded by the King of France, in 1603, to De Monts, as far as the 46th degree of north latitude, and that the territory north of that parallel to the shores of the St. Lawrence had already been for

Lands north of the  
46th parallel pos-  
sessed by France  
80 years before the  
grant of 1621.

Claim of Massa-  
chusetts to go to  
the St. Lawrence,  
annulled by the  
restoration of the  
country to France,  
1632.

\* Vide Map B, No. 8.

† Mr. Buchanan's Report from the Committee on foreign relations, to the Senate of the United States, July 4, 1838, p. 3.



eighty years under the jurisdiction of the French Governors of Canada. This bar to the English title to the country was made still more efficacious by the following cautious reservation in the grant of King James:—

“Si vel ipsa regna cultoribus prius vacua.”

But whatever claims could be asserted under a grant made under such circumstances, they were all necessarily extinguished by the full *restoration*, not *cession*, of the whole country comprehended in the grant of 1621 to its original possessor, by the Treaty of St. Germain in 1632. Under the grant therefore of 1621, the United States can maintain no claim to establish the proprietorship of the country on the part of Massachusetts.

We repeat, that although, in consequence of the restoration by Treaty in 1632, all English title derived from the grant of 1621, is to be considered invalid as against those holding under French titles, nevertheless, the boundary descriptions of the grant are to be taken as valid and binding with the United States, and were admitted to be so by the American Commissioners at the Treaty of 1783. These Gentlemen declared that the eastern boundary of Massachusetts was conterminous with the western boundary of Nova Scotia, indeed if this were not so, the United States would have no acknowledged eastern boundary. Massachusetts then having no claim of property as derived from the grant of 1621, must found any claim she may prefer, upon her Charter from William and Mary in 1691.\*

By this document, the territorial rights of the old Charter granted in 1606 to the New Plymouth Company, which had been forfeited, were restored, and other territories annexed, as follows:—

“The Colony of the Massachusetts Bay and Colony of New Plymouth, “the Province of Maine, the territory called Acadia, or Nova Scotia, and “all that *tract of land* lying between the said territories of Nova Scotia “and the said Province of Maine.”

The tract of land here spoken of, and which had been called *Sagadahoc*, had been granted on the 12th of March, 1664, by Charles the Second to his brother the Duke of York, and in that grant it is thus described:—

“Beginning at a certain place called or knowne by the name of Saint “Croix, next adjoining to New Scotland in America, and from thence extending along the sea coast unto a certaine place called Petuaquine or “Pemaquid, and so up the river thereof to the furthest head of same as it “tendeth northwards, and extending from thence to the River Kinebequi, and “so upwards by the *shortest course to the River Canada northward*.”

The Charter of 1691 also contained the following reservation:—

“Provided alwise that the said lands, islelands, or any premises by the “said letters patent, intended or meant to be granted, were not then actually “possessed or inhabited by *any other Christian Prince or State*.”

But, independent of the defect in this title which the previous occupation of the country by the French created, this charter, like the Grant of 1621, never gave anything more valid than a war title could give; for by the Treaty of Ryswick of 1697, the King of Great Britain agreed to restore to France all her possessions, as follows:—

“Pareillement, le dit Seigneur Roi de la Grande Bretagne *restituera* “au dit Seigneur Roi très-Chrestien tous les pays, isles, forteresses et colonies “en quelque partie du monde qu’ils soient situés, que les Français possédaient “avant la déclaration de la présente Guerre.”

By this act of restitution “the territory called *Accadia*, or Nova Scotia,” annexed by the Charter of William and Mary in 1691, to Massachusetts Bay, was restored to France, being part of her possessions before the declaration of war; and thus the right of Massachusetts to any part of the country north of the ancient limits of Accadia, which had occasionally in times of war

\* In corroboration of this, we quote the following passage from the pleadings in the “Case of “the Provinces of Massachusetts Bay and New York, respecting the boundary line between the “two Provinces.—Boston, 1764.”

“That the inhabitants of the Massachusetts Bay can claim nothing at present but what is “granted them by their last Charter in 1691, all their other grants and charters being void in “themselves, or declared so in the Chancery of England.”

The description of the boundary of the Grant of 1621, valid as respects Massachusetts.

Charter of Massachusetts from William and Mary, 1691.

Grant of Charles II to the Duke of York, of the Sagadahoc lands, March 12, 1664.

Grant of Sagadahoc annulled by its restoration to France, 1697.

come under the power of England, was placed upon the same footing with any claim she might have preferred to Nova Scotia. This is substantially admitted in the "statement on the part of the United States," referred to His Majesty the King of the Netherlands, in the following passage:

"Great Britain, however, agreed by the Treaty of Ryswick of 20th September, 1697, to restore to France, 'all countries, islands, forts and colonies, wheresoever situated, which the French did possess before the declaration of war,' Acadia or Nova Scotia being clearly embraced by those expressions, and being thus severed from the British dominions, the clause of the Massachusetts Charter, which annexed that territory to Massachusetts, was virtually repealed, and became a nullity."

Since, therefore, Massachusetts can have no title but that which she derives from her ancient colonial connection with England, and since it has been shown that England had no title which she could convey to any part of the country previously to the Peace of Utrecht in 1713, it results, that the title of Massachusetts to the tract of land called Sagadahoc, in relation to its boundary to the north, was not settled at that period.

We shall proceed to show that the right of Massachusetts to go to the River St. Lawrence, was denied by the British Government before the establishment of the southern boundary of the Province of Quebec by the Royal Proclamation of 1763; and that the Question of the northern boundary of Massachusetts as respected the *Sagadahoc* territory, continued unsettled after that period.

The English title to any part of this country first began in 1713, at the Peace of Utrecht, when France ceded Acadie according to its ancient limits, which extended only to the forty-sixth degree of north latitude; and the English title to the remaining part of the country accrued at the Peace of 1763, without the northern boundary of Massachusetts ever having been defined by any act of the British Government from the earliest of those periods; we think it therefore manifest, that the northern boundary of Massachusetts has always stood nearly in the same relation to the Charter of 1691, that her eastern boundary stands in to that of 1621. But it will be useful to give a more detailed account of the state of the question touching the northern boundary of the tract called *Sagadahoc*, and of the discussions which took place respecting it, previously to the independence of the United States.

It has been stated that in the charter of the Colony of Massachusetts Bay, granted by William and Mary in 1691, the original grant of the Colony of Massachusetts, lying east of New Hampshire, which had been vacated\*, was revived; and the Province of Maine, the Sagadahoc country, and Nova Scotia were annexed to it.

The Province of Maine had been granted by Charles the First on the 3d of April, 1639, to Sir Ferdinando Gorges. It consisted of an area, comprehended between two lines, one extending from the coast, by the Piscataway River, 120 miles into the interior, and the other further east extending up the Kennebec River for the same distance. This area is marked out on many of the older maps, as well as on Mitchell's, and has its northern limit far to the south of the height of land described by Pownall, hereafter to be mentioned.

The Colony of Massachusetts had acquired Maine by purchase in 1677, from Sir Ferdinando Gorges, and by the Charter of 1691, acquired a war-title to the country intervening between the Kennebec and the territories of Nova Scotia. This country, in the grant by Charles the Second to his brother the Duke of York, in 1664, was bounded on the west by the Kennebec River, and so upwards by the shortest course to the River Canada northward. But the whole of this country was within the ancient limits of Acadie. The French had constructed a fort at the Kennebec, and at various points on the coast eastward from that river. These were subdued in 1654, by Major Sedge-wick, under a Commission from Cromwell, who summoned the Sieur Charles de St. Etienne to surrender all that part of the country; and the summons being obeyed, he took possession of the French ports of Pentagoet (Penobscot), St. Jean, and Port Royal. On the 9th of August, 1656, Cromwell granted the country, under the Great Seal of England, to the same St. Etienne, to

Admission on the part of the United States, that the war grants were annulled by restoration. American State-ment, p. 14.

First title of England to "Acadie" accrued in 1713.

Question examined as to the ancient Northern Boundary of Sagadahoc.

Grant of Maine by Charles 1st to Sir Ferdinando Gorges, 1639.

Maine purchased by Massachusetts, 1677.

\* A judgment was given against the Colony in the Court of Chancery, in the 36th year of Charles the 2nd, and the Letters Patent ordered to be "cancelled, vacated, and annihilated."



Thomas Temple, and to William Crowne, under the designation of "the country and territory called Acadia, and a part of the country called Nova Scotia:" and in the same year, Temple was sent out as Governor. Subsequently, in 1664, Charles II. granted the territory to the Duke of York, and annexed to the grant the country west of the St. Croix, as far as the Kennebec. But in 1667, the whole country was, by the 10th Article of the Treaty of Breda, *restored* to France, under the designation of "*Le pays appelé l'Acadie, situé dans l'Amérique Septentrionale, dont le Roi très-Chrétien a autrefois joui.*"

In forming, then, a just estimate of the character of this grant of 1664, it is to be remembered that its substantial and most important feature is, that it gives "*all the lands from the west side of Connecticut River to the east side of Delaware Bay,*" comprehending the territory of the present States of New York and New Jersey. The annexation, therefore, of the country between the Kennebec and the territories of Nova Scotia, or the Sagadahoc territory, to the grant of 1664, amounted, as we have before observed, to nothing but a war-title, which of course expired with the restitution of the country to France. This restitution, although agreed upon in 1667, only took place in 1670. In the "*Mémoires des Commissaires du Roi et de ceux de Sa Majesté Britannique,*" are to be seen the documents of the Restitution then made by Sir Thomas Temple to the French authorities, with a particular description of the fort of Gemisick and its condition, by which we learn that this fort was on the River St. John, a few miles to the north of the forty-sixth degree of north latitude.

French fort of Gemesick, near the 46° of north latitude on the River St. John.

Grant to the Duke of York renewed in 1674, by Charles II.

False reason assigned in the official American Statement for the renewal. American Statement, p. 13.

In 1674 this grant was renewed to the Duke of York by his brother, Charles the Second, and in the official American statement we find the following erroneous assertion on this subject:—

"The Duke of York obtained from Charles the Second a subsequent confirmation of his grant, bearing date the 29th of June, 1674. This second grant, or confirmation, shows that in the restoration of Acadia, Great Britain did not mean to include any territory west of the St. Croix; and *the said confirmation was obviously asked and granted in order to remove any doubts on that subject.* The TERRITORY was afterwards governed under the authority of the Duke of York."

It is not difficult to clear up this mistake, the tendency of which is to mislead the public mind in America, as to the real motive of the renewal of the grant. In 1673, war having broke out with Holland, the territory of New York was surrendered, without resistance, to the commander of a Dutch squadron, and the inhabitants were sworn in to bear allegiance to the States General. By the Treaty of Peace signed at Westminster the succeeding year, 1674, the New Netherlands, or New York, were restored to England; and to obviate all difficulties that might arise in regard to titles to land, from the recent mutation in the sovereignty, the Duke of York solicited and obtained a renewal of the grant of 1664. The Governors sent out were Major Andros in 1674, and Thomas Dongan in 1682. But they were Governors of New York, and resided there. The renewal, therefore, of the grant of 1664 in 1674, was clearly not *asked* for or *granted* for reasons appertaining to the Sagadahoc territory, but arose out of the transfer, as stated, of the territory of New York; and the Sagadahoc territory was included in this last grant, as it had been in that of 1664, for the last grant is a mere copy of the first. As to acts of Government there by authority of these Governors, one only can be quoted. A fort was built at Pemaquid, near the Kennebec River, to curb the Indians, whom the wars of the Indian Sachem, commonly called King Philip, had rendered troublesome. This confirmation of the duke's grant, therefore, left his title to the Sagadahoc territory upon precisely the same footing on which it had stood before.

True reason for the renewal of the Grant of 1664.

On succeeding to the throne, his claims to that territory merged in his rights as Sovereign\*; then came the Charter of William and Mary, 1691, and subsequently to that, the Treaty of Ryswick, in 1697, which restored to the French every thing they had possessed before the declaration of war.

\* We quote the following passage from "the Case of the Provinces of Massachusetts Bay and New York," &c., before mentioned, forming part of the pleadings made on behalf of Massachusetts Bay in 1764, in order to show that it was the legal opinion in that Colony at that time, that all the lands of the Sagadahoc country belonged to the Crown up to 1691.

But the Royal Charter of 1691, even if it had not been annulled in relation to Sagadahoc, by the Treaty of Ryswick, furnishes no ground for a claim on the part of Massachusetts to go to the St. Lawrence; the words of the Charter are simply:—

“Those lands and hereditaments lying and extending between the said “country or territory of Nova Scotia and the said river of Sagadahoc.” The furthest point, therefore, to which this north-western corner of Sagadahoc can be claimed, is the source of the river, which being the Kennebec River, is the point passed by the Highlands of the Treaty of 1783, in north latitude 46°, or nearly so. This Charter, then, gives no title beyond the head of that river. Indeed, the pretence to go from thence to the St. Lawrence, has been altogether discountenanced by intelligent Americans, who had carefully studied the subject, both before and after their Independence. Mr. Jasper Mauduit was the Agent in London, for the General Court of Massachusetts, immediately after the conquest of Canada; and the Royal Proclamation of 1763 having brought him into correspondence with the Board of Trade, on the subject of the northern boundary of Massachusetts, he writes to the General Court thus:—

“It appeared to me, that though the Duke of York’s original patent “extended to the river of Canada, northward, yet that that was mentioned “*rather to preserve the national claim*, than as intended by the Crown to be of “force against itself.”

The Charter of William and Mary, of 1691, does not authorize the Colony of Massachusetts to go to the St. Lawrence.

Extract from Mr. Jasper Mauduit’s letter, June 9, 1764.

And Mr. Gallatin, a most acute statesman, and Plenipotentiary for the United States to negotiate the Treaty of Ghent, writes thus to their Secretary of State, December 25, 1814:—

“That northern territory is of no importance to us, and belongs to the “United States, and not to Massachusetts, *which has not the shadow of a claim “to any land north of 45° to the eastward of Penobscot River, as you may “easily convince yourself by recurring to her Charters.*”

Mr. Gallatin’s Opinion, that the State of Massachusetts had no claim to go to the St. Lawrence.

The Americans, however assert, that the King, not having the power to curtail the Chartered Limits of the Colony of Massachusetts Bay, by the Royal Proclamation of 1763; the effect of it was to reinstate the River St. Lawrence as the northern boundary of that Province; and this they say is proved by an opinion given by the Attorney and Solicitor-General, upon a case submitted to them, when they decided,—

“That the said tract of country, not having been yielded by the Crown “of England to France by any Treaty, the conquest thereof by the French, “created (according to the Law of Nations) only a suspension of the property “of the former owners, and not an extinguishment of it.”

Opinion of the law officers of the Crown, 1731.

Now, it is obvious that this opinion is founded entirely upon the hypothesis that the country in question had never been restored to France by any Treaty, whereas we have seen that it had been twice restored, in 1667 and in 1697. But this opinion of the law officers did not sanction at all the right of Massachusetts to go to the St. Lawrence,—a right, as we have before seen, which was not granted by the Charter of 1691. The opinion is purely applied to the terms of the Charter of 1691, and not to those of the grant of 1664 to the Duke of York, and runs thus:—

The law opinion applies only to the Charter of 1691.

“Upon considering the said case and questions, and the *evidence laid before us*, and what was alleged on all sides, it appears to us, that all the “said tract of land lying between the rivers of Kennebec and St. Croix, is “(among other things) granted by the said Charter to the inhabitants of the “said Province, &c., &c.”

No inference can be drawn from this that they meant to sanction the right of Massachusetts to go to the St. Lawrence, although it is insinuated by the American statement.

“Upon the accession of the Duke of York to the Crown of England in 1684, all the title “acquired by virtue of the grant aforesaid was merged in the Crown. This doctrine has always “been established where the Gothic Governments have taken place. If it should now be disputed, and it should be supposed to remain King James’s private estate, yet there was a “forfeiture at the time of his being in arms in Ireland, and King James’s private estate in Ireland “upon one or both of those principles vested in the Crown. Therefore, whether the lands in the “grant to the Duke of York, upon the abdication of King James came with the Crown to King “William and Queen Mary, or whether they were forfeited, it is certain that before the Charter “to the Massachusetts Province in 1691, the right was in the Crown.”



At a later period, a question of a wider range came before the Lords of the Board of Trade, viz: whether Massachusetts had any right whatever to lands contained in the Sagadahoc territory? It has already been stated, that this country was comprehended within the ancient limit of Acadie, and that it had been definitively ceded to Great Britain at the Peace of Utrecht. By the Treaty of Ryswick, in 1697, all title on the part of Massachusetts to this territory, was left upon the same footing with her title to Nova Scotia, which was admitted to be void. When that opinion was obtained from the law officers of the Crown in 1731, the Government of England considered the territory of Sagadahoc, as well as Nova Scotia, to belong to the Crown; and settlers had lands assigned to them in Sagadahoc, by the King's surveyor of Nova Scotia. It was in consequence of the remonstrances from Massachusetts on that account, that the *exparte* opinion of the law officers was given in 1731. But as the New England colonies were loyal and enterprising, and co-operated with the King's Government against the designs of the French in Canada, things were permitted to remain thus until the disputes with France were terminated.

*Exparte opinion of the law officers of the Crown given in 1731.*

By the Charter of 1691, Massachusetts was forbid to issue grants in the Sagadahoc territory, it declared them not to be

"Of any force, validity or effect, until we, our heirs and successors, shall have signified our or their approbation of the same."

And it was upon the occasion of the agent of Massachusetts in London, Mr. Jasper Mauduit, soliciting the confirmation of some grants, that he wrote thus to the General Court of Massachusetts:—

*Mr. Jasper Mauduit's letter to the General Court of Massachusetts, 1764.*

*Admits that the question was misstated to the law officers of the Crown in 1731.*

"The Lords (Lords of Plantation), notwithstanding the opinion formerly given, 1731, are still disposed to think the right of the Province doubtful as to lands between Penobscot and St. Croix, because the case was MISSTATED to the *Attorney and Solicitor-General*; and that, whatever be the determination on this head, yet the Lords think that the Province can claim no right on the River St. Lawrence; because, the bounds of the charter, are from Nova Scotia to the River Sagadahoc; so that this *right cannot extend above the head of that river*. That, however, if the Province will pass an Act, empowering their agent to cede to the Crown, all pretence of right or title, they may claim under their charter, to the lands on the River St. Lawrence, destined by the Royal Proclamation to form part of the Government of Quebec, the Crown will then waive all further dispute concerning the lands as far as the St. Croix, and from the sea-coast of the Bay of Fundy to the bounds of the Province of Quebec, reserving to itself only the right of approbation as before. Mr. Jackson and I were both of us of opinion that *the narrow tract of land* which lies beyond the sources of all your rivers, and is watered by those which run into the River St. Lawrence, could not be an object of any great consequence to you, though it is absolutely necessary to the Crown, to preserve the continuity of the Government of Quebec."

*North boundary of Massachusetts unsettled in 1764.*

It is clear from this extract, that Massachusetts, at this period, had her Northern Boundary yet unsettled, and that the narrow *tract of land* is the tract extending from the head waters of the Kennebec to the St. Lawrence. But the enactment mentioned in this letter was never passed; and matters were precisely in the same state when the revolt broke out in the colonies; so that up to the Peace of 1783, Massachusetts had no regular jurisdiction ceded to her by the Crown, beyond the head of the Kennebec River.

From this statement it results that all grants, derived either from her or from Maine, of lands in the *disputed territory*, are without the sanction of any charter or other title acquired from Great Britain, except that acquired by cession at the signing of the Treaty of 1783. This remark is made, to place in a prominent point of view the exclusive possession and jurisdiction of Great Britain over the disputed territory, from the Peace of Utrecht, in 1715, to the present moment.

*Exclusive possession and jurisdiction of Great Britain to the disputed territory.*

It may therefore be safely asserted, that no act of the British Government in relation to the annexation of the Sagadahoc territory to the Colony of Massachusetts' Bay, gave that colony a title to any part of it beyond the description contained in the Charter of William and Mary (1691), viz:—

"All those lands and hereditaments lying and extending between the said county or territory of Nova Scotia, and the said river of Sagadahoc," which being construed as far as the sources of the Kennebec River, coincides with the most southerly source of the River Chaudière.

We come now to examine what the mutual understanding was upon concluding the Treaty of 1783, as to any one of the Boundary lines, and as to the correspondence of the language of the II<sup>nd</sup> Article of the Treaty with the previous opinion entertained about the territory in dispute, and with the natural features of that territory.

By Article I. of the Treaty of 1783, the independence of the thirteen United States, including New Hampshire and Massachusetts, was established; and Massachusetts extending furthest to the east of those States, adjoined the western boundary of the King's retained dominions, *to wit*, Nova Scotia. It will not be pretended from any quarter, that Great Britain intended to surrender, or did surrender, to the new nation then coming into political existence, any portion of the British North American Colonies, lying out of the ancient boundaries of the revolted Colonies.

No change in the ancient Boundaries of the revolted Colonies, made by the Treaty of 1783.

"All claims to the Government, property, and territorial rights of the same (the revolted Colonies), and every part thereof," were relinquished in that Article; but nothing more.

To the north, as it has been shown, the territorial rights of Massachusetts were undefined; but to the east they were limited by the waters of the St. Croix, that river being part of the north-west boundary of the Province of Nova Scotia, as described in the grant of James the First, in 1621. This was universally understood to be so by the colonists in the revolted Provinces, and was admitted by their Commissioners when they agreed upon the terms of the Treaty of Peace in 1783.

It appears, by reference to the "Secret Journals of Congress," vol. ii. p. 225 (published in 1824, forty-one years subsequently to the recognition of the independence of the United States), that, in contemplation of some expected negotiations for a peace, a Committee of the Congress, appointed for that purpose, recommended, February 23, 1779, amongst other things, that it ought to be insisted on as their ultimatum, that the bounds of the United States be acknowledged—"Easterly by the boundary settled between Massachusetts and Nova Scotia."

Secret Journals of Congress, vol. 2, p. 225.

And on the 19th of March of the same year, the Congress adopting the Report of the Committee, agreed to the following *ultimata* :—

"That the thirteen United States are bounded north by a line to be drawn from the north-west angle of Nova Scotia, along the highlands which divide those rivers which empty themselves into the River St. Lawrence, from those which fall into the Atlantic Ocean, to the north-westernmost head of Connecticut River. And east, by a line to be drawn along the middle of St. John's, from its source to its mouth, in the bay of Fundy, or by a line to be settled and adjusted between that part of the State of Massachusetts Bay, formerly called the Province of Maine, and the Colony of Nova Scotia, agreeably to their respective rights, comprehending all islands within twenty leagues of the shores of the United States, and lying between lines to be drawn due east from the points where the aforesaid boundaries, between Nova Scotia on the one part, and East Florida on the other part, shall respectively touch the Bay of Fundy, and the Atlantic Ocean."

Proposition of the Congress, in 1779, to make the St. John the boundary from its source to its mouth.

This passage is significant, inasmuch as it not only fixes the north-west angle of Nova Scotia to be at the source of the St. John, but especially states the mouth of that river to be, not in the Atlantic Ocean, but in the Bay of Fundy.

On the 14th of August, 1779, the Congress acting further upon the resolution of the 19th of March, "unanimously agreed to instructions to be given to the Commissioner (Mr. John Adams) appointed by them to negotiate a Treaty of Peace."

In these instructions, Article the 3rd, which recites the boundary intended to be claimed, repeats *verbatim* what the Congress agreed to on the 19th of March.

In 1782, when preliminaries were negotiating at Paris for peace, the Congress adopted (on the 20th August) a Report from one of their Committees appointed for the purpose, and which stated :—

"That they had collected facts and observations which they recommend to be referred to the Secretary for Foreign Affairs, to be by him digested, completed, and transmitted to the Ministers Plenipotentiary for negotiating a peace, for their information and use."



Amongst other things, the Committee report,—

“With respect to the boundaries of the States, &c., Massachusetts claims under the Charter granted by William and Mary, October, 1691,” &c.

“It is incumbent on us to show that the territorial rights of the thirteen United States, while in the character of British colonies, were the same with those defined in the instructions given to Mr. J. Adams on the 14th day of August, 1779.”

The proposition made in 1782, by the American negotiators, to make the St. John the boundary, rejected by the British Government.

The proposition abandoned, and the St. Croix substituted by the American negotiators.

Testimony of Mr. John Adams.

During the discussion of the preliminaries in 1782, the proposition contained in the Report of the Committee of Congress, and which was agreed to on the 19th of March, 1779, to make the River St. John the boundary from its source to its mouth, was again brought forward by the American Commissioners, but was peremptorily rejected by the English Government.

The American Commissioners then abandoned their proposition to make the River St. John the boundary, and agreed to substitute the St. Croix River. The same Mr. John Adams, when examined on oath by the Commissioners under the Treaty of Amity of 1794, for ascertaining the true St. Croix, stated that:—

“One of the American Commissioners at first proposed the River St. John, as marked on Mitchell’s map; but his colleagues observing, that as the St. Croix was the river mentioned\* in the Charter of Massachusetts Bay, they could not justify insisting on the St. John as an ultimatum, he agreed with them to adhere to the Charter of Massachusetts Bay.”

To another interrogatory, Mr. Adams replied:—

“The ultimate agreement, was to adhere to the Charter of Massachusetts Bay, and to the St. Croix River mentioned in it, which was supposed to be delineated in Mitchell’s map.”

At length, the boundary was definitely agreed upon, as we find it described in the II<sup>nd</sup> Article of the Treaty of Peace of 1783; and the dividing lines between the United States and the King’s dominions, were for ever declared to be as follows:—

Second Article of the Treaty of 1783.

“Article II. And that all disputes which might arise in future, on the subject of the boundaries of the said United States may be prevented, it is hereby agreed and declared, that the following are, and shall be their boundaries; viz. from the north-west angle of Nova Scotia; viz.: that angle which is formed by a line drawn due north from the source of the St. Croix River to the Highlands, along the said Highlands which divide those Rivers that empty themselves into the River St. Lawrence, from those which fall into the Atlantic Ocean, to the north-westernmost head of Connecticut River; thence down along the middle of that river to the forty-fifth degree of north latitude; from thence by a line due west on said latitude until it strikes the River Iroquois, or Cataraguy; thence along the middle of said river into Lake Ontario, through the middle of said lake, until it strikes the communication by water between that lake and Lake Erie; thence along the middle of said communication, into Lake Erie; through the middle of said lake, until it arrives at the water-communication between that lake and Lake Huron; thence along the middle of said water-communication into the Lake Huron: thence through the middle of said lake to the water-communication between that lake and Lake Superior; thence through Lake Superior, northward of the Isles Royal and Philipeaux, to the Long Lake; thence through the middle of said Long Lake, and the water-communication between it and the Lake of the Woods, to the said Lake of the Woods; thence through the said lake to the most north-western point thereof; and from thence, on a due west course, to the River Mississippi; thence by a line to be drawn along the middle of the said River Mississippi, until it shall intersect the northernmost part of the thirty-first degree of north latitude; south, by a line to be drawn due east, from the determination of the line last mentioned, in the latitude of thirty-one degrees north of the equator, to the middle of the River Apalachicola, or Catahouche; thence along the middle thereof, to its junction with the Flint River; thence straight to the Head of St. Mary’s River; and thence down along the middle of St. Mary’s River to the Atlantic Ocean;—east, by a line to be drawn along

\* He should have said “intended,” as the St. Croix is not named.

"the middle of the River St. Croix *from its mouth in the Bay of Fundy*, to its source; and from its source directly north, to the aforesaid Highlands, which divide the rivers that fall into the Atlantic Ocean from those which fall into the River St. Lawrence; comprehending all islands within twenty leagues of any part of the shores of the United States, and lying between lines to be drawn due east from the points where the aforesaid boundaries between *Nova Scotia* on the one part, and *East Florida* on the other, shall *respectively touch* the Bay of Fundy and the Atlantic Ocean; excepting such islands as now are, or heretofore have been within the limits of the said Province of *Nova Scotia*."

It will be observed that the phraseology of the Extract from the Secret Journals of the Congress, of the date of 19th of March, 1779, respecting the eastern boundary, has been transferred almost literally, into this II<sup>nd</sup> Article; with the exception, however, of the River St. Croix being substituted for the River St. John, and with the further exception of a line directed to be drawn *due north* from the source of the St. Croix River to the Highlands which were hereafter to be the northern limits of the United States in this quarter.

But as the word "Highlands" is, in this II<sup>nd</sup> Article of the Treaty, for the first time used in a manner that sets the language of the Article at variance with the clear and intelligible signification belonging to the Propositions quoted from the Secret Journals of the Congress, it may be useful to examine the process under which it has at length been brought into discussion, in a manner essentially to embarrass the execution of the Treaty. And this we shall do with some hope of being able to restore the term "Highlands" to its legitimate sense.

From the earliest periods, it had been known to the French and English settlers in that part of North America, that a great axis of elevation, or *height of land*, which had its origin in the English colonies, passed to the north-east, throwing down from one flank at about forty-five degrees north latitude, the head waters of the Connecticut River, which empties itself to the south into that channel of the Atlantic Ocean which separates Long Island from the Continent; and from the other flank, the head waters of the St. Francis River, which empties itself in a north-westerly direction into the River St. Lawrence. Further to the north-east, the head waters of the Kennebec and the most western sources of the Penobscot take their rise in the same height of land. These two rivers discharge themselves into the Atlantic Ocean, whilst the Chaudière River, the sources of which almost interlock with those of the two last-named rivers, empties itself into the Saint Lawrence, nearly opposite to Quebec. Equally close to the sources of the Chaudière and the Penobscot, and in about forty-six degrees of north latitude, the south-west branches of the St. John are derived from the same height of land. This river, after running for about 160 miles in a north-eastwardly course, nearly parallel to the same axis of elevation in which it takes its rise, turns to the south-east, and at the great falls of the St. John in north latitude 47° 2' 39", passes through the same axis, and proceeds to discharge itself into the Bay of Fundy. It is further of importance to observe, that the trail or path of the Indian nations between the Atlantic Ocean and the River St. Lawrence, lay across that *height of land* from the earliest times; and that Quebec, which is situated on that part of the St. Lawrence where the river suddenly contracts in breadth, and which receives its name from the Indian word *Kebec*, signifying *narrow*, appears to have been a place of resort for the Indians, long before the white men visited the country.

Early notices of the Highlands of the Treaty of 1783.

Meaning of the word "Quebec."

From Quebec, the Indians were wont to pass up the Chaudière in their bark canoes, carrying them across the Portages, and over the *height of land* to the waters of the Penobscot, and continuing down which to near the forty-fifth degree of north latitude, they then turned up one of its eastern branches, called Passadumkeag; whence, making a small portage of about two miles, they got into the westernmost waters of the St. Croix, and so reached the Bay of Fundy; performing the whole distance of about 275 miles by water, with the exception of perhaps twelve miles of portage, over which, according to the custom still in use by the North American Indians, they carried their light birch-bark canoes.

Route by Canoes from Quebec to the St. Croix as performed by the Indians.

The facility of reaching the River St. Lawrence by this route, was well-known to the first settlers, all of whom had for their principal object a trade



Letter from Sir  
Thomas Temple,  
Nov. 24, 1668.

with the Indians. There is a letter extant, from Sir Thomas Temple to the Lords of the Council, dated November 24, 1668, from which it appears, that the route was known to the French Court before that time, the "passage by land," evidently referring to the "height of land."

"M. Dubourg informs me, that the Most Christian King intended to "plant a Colony at Pentagoet (Penobscot), and make a *passage by land* to "Quebec, his greatest town in Canada, being but three days' journey distant."

Topographical  
description of North  
America, by T.  
Pownall, 1776.

This *height of land* was described in books, and most prominently set forth in maps, long before the revolt of the British Colonies, and the independence of the United States. In the map published by Lewis Evans of Philadelphia, in 1755, and which Governor Pownall annexed to his work in 1776, it is laid down with the supposed situation of the portages over it. Pownall thus speaks of it:—

"This River (the Kennebec), in the year 1754 and 1755, was talked of as a route, by which an army might pass the best and shortest way to "attack Canada and Quebec. The route was supposed to be by an Indian "path, or carrying place, which going off from Kennebaeg, about eight or "ten miles above Noridgewaeg, in a north-west course of six or seven miles, "came to a pond which issued into the River Chaudière."

Although Pownall's work was published in London in 1776, the information was collected during the period he was Governor of Massachusetts, just previously to the war with France in 1756, and was at first intended for the impending contest. The map annexed to it was, as has been before observed, first published by Evans, in 1755, with the public assistance, and upon that Map, the Highlands which divide the St. Francis and the Chaudière, from the Connecticut, the Kennebec, and the Penobscot, are laid down and called "*Height of Land*."

In the preface of Evans, dated August 9th, 1755, we find the following passage:—

"The Map, which these sheets accompany, and which they are intended "to explain, is presented to the public, when a longer time was indeed "necessary to have given it the degree of correctness that was intended it. "But the *present conjuncture of affairs in America, and the generous assistance of "the Assembly of Pennsylvania, have brought it to light.*"

The fact of its being published by the assistance of the Legislature, in addition to the great importance attached to it at that day, leaves the undeniable inference, that it must have been familiarly known in the British North American colonies; and that Franklin, Adams, and other leaders in the Congress, some of whom were Commissioners to treat for peace in 1782, must necessarily have consulted Pownall's work, published in 1776, at the commencement of hostilities with the revolted colonies, a period when the *height of land* was adverted to and described by him merely as a feature in the physical geography of that part of North America. When we look at certain passages in Pownall, and compare them with the language used in the Royal Proclamation of 1763, with the description of the future boundary proposed for the United States of America, found in the secret journals of the Congress, and with the terms of the Commissions of the Governors of Lower Canada and Nova Scotia, immediately after the Peace of 1763; the further inference is irresistible, that the Highlands mentioned in them are identical with the height of land we have been speaking of, and with the Highlands intended by the Second Article of the Treaty of 1783.

Highlands of the  
Treaty of 1783,  
identical with  
Pownall's "*height  
of land*."

And, as we have found no difficulty in reconciling the natural features of the country with the language of the Treaty, but, on the contrary, have practically worked out the accordance between them, we proceed to collate the proofs from Pownall, which establish their general identity.

Pownall, p. 14.

"The great portion of this country which lies east of Hudson's River "and Lake Champlain, lies in the form of a lunette, or a quarter of a circle. The "first part, beginning at Long Island Sound, runs nearly north and south, and "then, in about north latitude 45°, curves *away eastward* to the Gulf of St. "Lawrence.

"The highest part of this tract of mountains may be defined by a line "drawn north-westerly from the white hills (about 44° 10') to the 45th parallel "of north latitude.

"Going from the same line, in latitude 45° of the greatest height of these

"range of mountains, and following them to the east-northerly, they all seem  
"to range as united, until again divided by the Bay of Chaleurs.

"Connecticut River. This river rises in north latitude  $45^{\circ} 10'$ , at the height  
"of the land.

"A range, running hence across the east boundary line of New Hamp-  
"shire, in latitude  $44^{\circ} 30'$ , and tending north-east, forms the height of the  
"land between Kennebaeg and Chaudière Rivers.

"This River Kennebaeg, to begin from its principal branch, may be de-  
"scribed as rising on the height of land in north latitude  $45^{\circ} 20'$ .

"From the head of the river to a little stream which falls into Aga-  
"muntaeg Pond, is a carrying place of about four miles, that is, the Indian  
"carrying place; but I apprehend, that, if a body of men would transport  
"any baggage which requires a depth of water before it can be embarked, the  
"portage must be to, or near to, the Lake, about ten miles. This lake is the  
"head of Chaudière River, and is about forty miles above the present settle-  
"ments of the Canadians.

"All the heads of Kennebaeg, Penobscag, and Passamaquadda Rivers,  
"are in the height of land running east-north-east."

All this detailed information had been acquired by Governor Pownall, previously to the war of 1756, in surveys made with a view to military operations against Quebec, and which, it appears, extended to the eastern branches of the Penobscot, and the heads of the St. Croix, called by him Passamaquadda. Pownall's recon-  
naissances extend  
to the eastern  
branch of the  
Penobscot.

From these passages, we see that one result of his topographical re-  
searches was to establish the existence of a *height of land* or highland, where  
the *Connecticut*, the *Kennebec*, the *Penobscot*, and the *Passamaquoddy* took  
their rise—a circumstance, of itself, showing a real correspondence between  
the natural features of the country and the language of the Treaty of 1783.  
That this was generally known, may be inferred from the language of the  
Royal Proclamation of October 7, 1763.

From 1755 to the Peace of 1763, we have no evidence of any additional  
topographical information having been acquired by the British authorities,  
beyond the fact that there is a height of land in which the sources of the  
*Connecticut* take their rise, and which throws down in its north-easterly  
course, the waters of the St. Francis and of the Chaudière from its northerly  
flank, and those of the *Connecticut*, of the *Kennebec*, and of the *Penobscot*,  
from its southerly flank; we may therefore reasonably expect to find in the  
descriptions applicable to that part of the country which are contained in the  
public documents promulgated immediately after the Peace of 1763, a mere  
echo of the information produced by the explorations of Governor Pownall.

Immediately after the Peace, a Royal Proclamation, dated in 1763, was  
issued, which defined the limits of the Government of Quebec, in the following  
terms:—

"The Government of Quebec, bounded on the Labrador coast by the  
"River St. John\*, and from thence by a line drawn from the head of that  
"river, through the Lake St. John to the south side of the Lake Nepissin,  
"from whence the said line crossing the River St. Lawrence and the Lake  
"Champlain, in forty-five degrees of north latitude, passes along the High-  
"lands which divide the rivers that empty themselves into the said River St. Law-  
"rence, from those which fall into the Sea, and also along the north coast of the  
"Bay des Chaleurs and the coast of the Gulf of St. Lawrence to Cape  
"Rosiers, &c., &c."

Royal Procla-  
mation of the  
southern boundary  
of Quebec, 1763.

This is plainly an abbreviated method of copying the information given by  
Pownall, the course of the rivers being mentioned, but not their names.  
Pownall had said that the different ridges into which the country sometimes  
resolved itself, seemed "to range as united until again divided by the Bay of  
"Chaleurs;" and we accordingly find that the whole of this range described  
by Pownall, is made the southern boundary of the Government of Quebec,  
and that that boundary is terminated by the "north coast of the Bay des  
Chaleurs."

The description of  
the southern bound-  
ary of Quebec  
taken from Pownall.

Can there then be a doubt amongst intelligent men, that the Highlands  
mentioned in the Royal Proclamation are the identical highlands, or height The Highlands  
and rivers are

\* The River St. John here spoken of lies on the north side of the Gulf of St. Lawrence.



therefore those which Pownall describes.

of land described in the Extracts from Pownall's work? or that the two classes of rivers, spoken of as being divided by those highlands (one class falling into the St. Lawrence, and the other into the Sea) are, on the one hand, the St. Francis and the Chaudière of Pownall, the *only* rivers which there empty themselves into the St. Lawrence: and on the other hand, the Connecticut, the Kennebec, and the Penobscot, the *only* rivers which from thence fall into the Atlantic Ocean? the Connecticut, rising, as Pownall states, "in 45° 10', "at the height of land between Kennebaeg and Chaudière," and the Kennebec and Penobscot, having their heads, as he also states, in the same height of land?

The western and eastern branches of the Penobscot spread across the southern face of the disputed territory.

It is further to be remarked, as may be seen by referring to the map, that the different branches of the Penobscot spread east and west nearly across the whole southern face of the disputed territory. The westernmost branch of the Penobscot rising in these highlands about two and a-half miles from an eastern branch of the Chaudière; whilst the easternmost source of the Mattawamkeag, which is a main branch of the Penobscot, rises more than one hundred miles distant from its western source; and is only separated from the monument erected at the northern source of the St. Croix, by a distance not exceeding six miles; and from another stream further to the north, which, though called also St. Croix, is a branch of the River Roostuc, by a distance not exceeding four miles.

It is not true, then, as has heretofore been stated, that the Royal Proclamation of 1763 is silent as to that part of the country intervening between the Highlands where they confessedly divide the St. Francis and the Chaudière, from the Connecticut, the Kennebec, and the Penobscot; and the further continuation of those Highlands in the direction of the Bay of Chaleurs; for it distinctly speaks of the Highlands as dividing the rivers that empty themselves into the St. Lawrence from those which fall into the sea; and we have now shown that the Penobscot, which is admitted to fall into the sea, actually extends nearly across the whole southern front of the disputed territory, having its most eastern source distant more than one hundred miles from its most western source, and the whole of its branches being thrown down by highlands, which we shall hereafter show to be a continuation of the highlands which divide it from the Chaudière.

That this was admitted by the Government of the State of Massachusetts, in 1792, before the separation of Maine from that State, is proved by a contract entered into by that State with Jackson and Flint, for the sale of a tract of Land bounded, to the east, by the St. Croix River, the tract being thus described:—

Jackson and Flint's purchase from Massachusetts in 1792, of lands bounded on the north by the Highlands of the Treaty of 1783.

"*Westerly*, by a line on the east side of the great eastern branch of Penobscot River, at the distance of six miles therefrom;

"*Easterly*, by the River Scoodiac (the St. Croix), and a *line extending northerly from the source thereof to the Highlands*; and

"*Northerly*, by the Highlands, or by the line described in the Treaty of Peace between the United States and His Britannic Majesty."

The western bounds of this grant are here covenanted to be formed by a line six miles distant from the eastern branch of Penobscot River, which line would run, by a just construction of the contract, to the source of that eastern branch, and no further. The northern limits were to be formed by the Highlands of the Treaty of 1783, and the eastern bounds by the River St. Croix, and a north line running to the Highlands. This method of description is a mere paraphrase of the boundary description of the Treaty; and the inference is clear, that the parties conceived the eastern branch of the Penobscot to take its rise in those Highlands. This is further proved in Greenleaf's Map of Maine in 1815, which was considered authority at that time, and the improved editions of which are the best authority in the United States up to the present day. On that map, the boundary line itself of the grant to Jackson and Flint is laid down six miles from the eastern branch of the Penobscot, and the point of departure of that line is taken from that part of the eastern branch which is opposite to the most western waters of the St. Croix.

The extent of Jackson and Flint's purchase laid down on Greenleaf's map of Maine, of 1816.

The line then continues to the source of the said eastern branch, where it stops, and where, unquestionably, the parties at that time conceived the Highlands of the Treaty to be. Mr. Greenleaf, in his "Statistical View of the District of Maine," published in 1816, further confirms this to have been

the general understanding at that day, by describing *the highest points of land between the Atlantic and the Saint Lawrence*, as contained in a tract of country running north-easterly between the sources of the Du Loup, a branch of the Chaudière, and the east branch of the Penobscot.

The Proclamation of 1763 states also, that the line of boundary of the Government of Quebec, is to pass "along the north coast of the Bay of Chaleurs;" it does not state, as has been erroneously asserted, that the line passes along Highlands, which are on the north coast of the Bay of Chaleurs; but merely that it, the line, is to pass along the north coast, so as to place the whole of that part of the country, down to the water's edge of the bay, within the jurisdiction of Quebec. And it is a fact, which will hereafter be shown, that the Highlands do extend from the eastern sources of the Penobscot, to the Bay of Chaleurs, forming a perfect continuity of Highlands from that bay to the heads of the Chaudière.

The propriety of including all the settlements accustomed to be governed by French law, and professing, as the Canadians of those settlements did, the Roman Catholic Religion, was manifestly one of the motives for extending the jurisdiction of Quebec, wherever the settlements were French. This is evident, both from the language of the Proclamation of 1763, where the boundary line is directed to go 'also along the north coast of the Bay of Chaleurs,' because various fishing settlements were there; and from the recital of the same boundary in the Act 14 Geo. III, 1774, commonly called the Quebec Act, where the southern boundary is thus described:—

"All the territories, islands, and countries in North America, belonging to the Crown of Great Britain, bounded on the south by a line from the Bay of Chaleurs along the highlands which divide the rivers that empty themselves into the St. Lawrence from those which fall into the sea to a point in forty-five degrees of northern latitude, on the eastern bank of the River Connecticut."

The southern boundary of Quebec intended to cover all Canadian Settlements.

Quebec Act, 14th Geo. III., 1774.

No particular point of the Bay of Chaleurs is here mentioned at which this line is to begin, and there is nothing in this Act which forbids the jurisdiction of Quebec to go as far south as the southernmost point of the Bay of Chaleurs at Bathurst, in north latitude 47° 38'. But in the commission of Montague Wilmot, dated 21st of November, 1763, the Government of the Province of Nova Scotia is directed to "be bounded by the southern boundary of our Provinces of Quebec as far as *the Western extremity* of the "Bay des Chaleurs." And this is repeated in other commissions to governors at various periods. But as no part of the territory in dispute with the United States can lie east of the due north line from the source of the St. Croix, the Acts of the British Government touching the partitionment of lands between the Provinces of New Brunswick and Lower Canada, are not appropriate matters for discussion in the dispute with the United States. The real subject for discussion is purely the true direction of the highlands which "divide those rivers that empty themselves into the St. Lawrence, from those which fall into the Atlantic Ocean to the north-westernmost head of Connecticut River;" and is limited to that part of them which lies west of the due north line, and to the point at which the due north line from the sources of the St. Croix River comes to those highlands.

Commission of Montague Wilmot, 1763.

On a review of the preceding pages, it will be seen that we have shown,

1st. That the Colony of Massachusetts Bay acquired at no time any title to lands lying north of the *ancient limits of Acadia*, which extended only to the forty-sixth degree of north latitude.

Massachusetts has never acquired any title to lands north of 46°. N. lat.

2nd. That the height of land described by Evans and Pownall in 1755, extended to the eastern branches of the Penobscot.

3d. That the description of the southern boundary of the Province of Quebec in the Royal Proclamation of 1763, was derived from the information published by Evans, the highlands there spoken of being identical with the *height of land* laid down in Evans' map.

4th. That the Boundary description contained in the commission of Governor Wilmot and other governors; in the Quebec Act of 1774; in the Resolutions of the Congress in the Secret Journals; in the Royal Proclamation of 1763; and in the Treaty of 1783, are all identical with each other; and,—



Lastly. That this was admitted to be so by the State of Massachusetts, by their public acts in 1792, and by their published maps in 1816.

This then is perhaps one of the most remarkable instances in the history of diplomacy, where the language of a Treaty professing to obviate the possibility of all future disputes on the subject of boundary betwixt two countries, should have produced the very disputes which have prevented the execution of that same Treaty. We beg attention, therefore, to the language of the II<sup>nd</sup> Article of the Treaty of 1783, and propose, first to show the cause of the obscurity, and next, to clear that obscurity up.

“Article II. And that all disputes which might arise in future on the “subject of the boundaries of the said United States may be prevented, it is “hereby agreed and declared that the following are and shall be their “boundaries: viz., from *the north-west angle of Nova Scotia*, viz., that angle “which is formed by a line drawn due north from the source of St. Croix “River to the highlands, along the said highlands which divide those rivers “that empty themselves into the River St. Lawrence, from those which fall “into the Atlantic Ocean, to the north-westernmost head of Connecticut “River.”

Had the parties to the Treaty, previously to its being concluded, agreed among themselves, and distinctly described where those Highlands were actually to be found upon the surface of the territory which was to be divided, then the north-west angle of Nova Scotia, where the Treaty directs the boundary to BEGIN, could easily have been ascertained: but no such agreement having been recorded, it remained in the power of either of the parties to refuse to acknowledge as the “Highlands” of the Treaty, those Highlands which the other party claimed to be such; and so to prevent the execution of the Treaty. For the Treaty directs the Boundary to begin at a point which *never had been determined or ascertained in any manner, or at any time*, either directly, or indirectly, notwithstanding all the American allegations to the contrary. That point therefore is to this moment a non-existent point, and must for ever remain so, until the parties agree upon the two lines mentioned in the Second Article, to wit, the “Highlands,” and “the due North Line,” the junction of which is to give the “North-west angle of Nova Scotia.” Now the “Highlands,” as we have shown at page 22, were laid down in the map of Evans, published in 1755, were mentioned in the Royal Proclamation of 1763, and are described by Pownall in his work dated 1776. The inference, therefore, is clear, that they were publicly known, and that they were the “Highlands” intended in the Treaty of 1783. We also have shown at page 24, that the Government of Massachusetts assigned these same Highlands in 1792, as the northern limit of a contract for land made with some of their own citizens. But the language of the Treaty, which places the beginning of the boundary at a non-existent point, is in opposition to the law of inductive science, and to the progress of all practical human business, for it directs the parties to go from the *unknown to the known*, and to commence at the end instead of the beginning. It is not therefore surprizing that the Treaty has not yet been executed; nor is it to be wondered at that the British Government should be urged to adopt as the Highlands of the Treaty, other Highlands than the true ones, for the obvious reason, that the adoption of such a boundary would give to the United States, the whole of the territory in dispute.

Impossibility of executing the II<sup>nd</sup> Article, without first agreeing upon the line of Highlands.

Difficulties appertaining to the two lines mentioned in the II<sup>nd</sup> Article.

But the difficulty of ascertaining this north-west angle, is not the only difficulty which has hitherto presented an insurmountable obstacle to the execution of the Treaty; for it will be found that the nature of each of the two important lines, whose junction is to create the north-west angle, requires to be carefully reconsidered, before Her Majesty’s Government can be prepared to assert the British case upon its true merits.

Of these two lines, namely, the *Highlands*, and the *due North Line from the source of the St. Croix*, the first, when it shall be agreed upon, will give the Northern Boundary of the United States, from the north-western head of Connecticut River eastward, until it touches the due North Line; and the second will give the extreme eastern Boundary of the United States.

In entering upon the examination of the Question, where are those

Highlands of the Treaty that will form the future Northern Boundary of the United States?—a Question which must be settled before the Treaty can be executed, and which involves considerations of great importance to Her Majesty's Colonies,—we deem it necessary to revert in the first place, to the original grant of Nova Scotia to Sir William Alexander, by King James I. in 1621; which as has been before shown, was admitted by the American Commissioners at the signing of the Treaty in 1783, to determine the boundary of the Colony of Massachusetts Bay. That grant is described in the following terms:—

“Omnes et singulas terras Continentis, ac insulas situatas et jacentes  
“in Americâ intra caput seu promontorium communiter *Cap de Sable*  
“appellat. Jacen.\* prope latitudinem quadraginta trium graduum auteo  
“circa ab equinoctiali lineâ versus Septentrionem, á quo promontorio  
“versus littus maris tenden ad occidentem ad stationem Sanctæ Mariæ  
“navium vulgo *Sanctmareis Bay*. Et deinceps, versus Septentrionem per  
“directam lineam introitum sive ostium magnæ illius stationis navium  
“trajicien. quæ excurrit in terre orientalem plagam inter regiones Suriquorum  
“et Etcheminorum vulgo *Suriquois* et *Etchemines* ad fluvium vulgo nomine  
“*Sanctæ Crucis* appellat. Et ad scaturiginem remotissimam sive fontem ex  
“occidentali parte ejusdem quise primum predicto fluvio immiscet. Unde  
“per imaginariam directam Lineam quæ pergere per terram seu currere  
“versus Septentrionem concipietur ad proximam navium Stationem, fluvium  
“vel Scaturiginem in magno fluvio de Canada sese exonerantem. Et ab eo  
“pergendo versus orientem per maris oris littorales ejusdem fluvii de Ca-  
“nada ad fluvium stationem navium portum aut littus communiter nomine  
“de Gathepe vel Gaspee notum et appellatum.”

Extract from the  
Grant of Nova  
Scotia, 1621.

Of this passage, we submit the following literal translation:—

*All and each of the lands of the Continent, and the islands situated and lying in America within the headland or promontory, commonly called Cape Sable, lying near the forty-third degree of latitude from the equinoctial line or thereabouts. From which promontory stretching westwardly, towards the North, by the sea-shore, to the Naval Station of St. Mary, commonly called St. Mary's Bay. From thence, passing towards the North by a straight line, the entrance or mouth of that great naval station, which penetrates the interior of the eastern shore betwixt the countries of the Souriquois and the Etchemins, to the river, commonly called the St. Croix. And to the most remote source or spring of the same on the western side, which first mingles itself with the aforesaid river. From whence, by an imaginary straight line, which may be supposed (concupietur)† to advance into the country, or to run towards the North, to the nearest naval station, river, or spring, discharging itself into the great River of Canada. And from thence advancing towards the East by the gulf shores of the said River of Canada, to the river, naval station, port, or shore, commonly known or called by the name of Gathepe or Gaspé.*

Literal translation  
of the extract from  
the Grant of Nova  
Scotia, of 1621.

On the map A accompanying this Report, a dotted broken line is traced in red ink, which appears literally to conform to the language of the original grant of Nova Scotia as quoted above, and to be consistent with the knowledge possessed in those days of the intermediate country betwixt the mouth of the St. Croix River and the River St. Lawrence; a knowledge of which could only have been derived from the Indians passing between those points in the manner before alluded to, to carry on their traffic in furs. We perceive by the French names given to the Indian tribes in this grant, that all the information of the country contained in the grant was derived from the French; and that the direction to follow the St. Croix to its westernmost sources, is consistent with the very precise knowledge we now possess of the branches of that river. On the other hand, this direction to go to the westernmost sources of the St. Croix would appear to be without an object, unless it were to get into the adjacent waters of the Penobscot; and is it reasonable to suppose that the expression, “*versus Septentrionem ad proximam navium Stationem fluvium vel scaturiginem in magno fluvio de Canada sese exonerantem*,” could mean that the line

Reference to the  
map A., for a new  
construction of the  
description of the  
western boundary  
of Nova Scotia.

\* The abbreviations are literally copied from the Charter.

† This term appears to point to the general practice of communicating betwixt the St. Croix and Quebec, by way of the rivers, as if it were said “the practice hitherto has been to go circuitously by the rivers, but the true boundary is to be conceived as a straight line.”



to the St. Lawrence from the sources of the St. Croix should be a due north line; at a time when no information existed of the interior of the country to be traversed by a due north line; and when it was not known whether there was a river or a naval station at the termination of that line; there being, in point of fact, neither the one nor the other? Compelled, therefore, to believe that a line drawn due north from the sources of the St. Croix River is not in accordance with the description contained in the grant, we proceed to a more critical examination of the language of the grant.

The boundary line is first directed, as will be seen by reference to the map, to proceed from Cape Sable to St. Mary's Bay by a course *towards* the north (*versus Septentrionem*). Now this course is laid down in the oldest maps, and *is rightly so laid down* in them, nearly *north-west*;—*versus Septentrionem* therefore here is equivalent to *north-west*. This is a fair deduction from the general description of the course, which is: '*versus Septentrionem à quo promontorio versus littus maris tenden ad occidentem*,' stretching westwardly towards the north, the term for which is *north-west*. That "*versus Septentrionem*" is to be grammatically construed in connection with "*tendens*" is evident, since the course is not said to be east or west of north; whilst if it were to be construed in connection with "*ab equinoctiali Linea*," it would only serve to explain what could never be doubted, viz., that Nova Scotia was situated north and not south of the Equator.

From St. Mary's Bay, the course is, in like manner, directed to run '*versus Septentrionem*,' or north-west, across the entrance of the Bay of Fundy to the River St. Croix. And this is the true course as exhibited by the map.

But the next part of the course is not directed to be *versus Septentrionem*, but simply directs the St. Croix to be followed, tracing its course up the first stream which flows into it from its western bank, and up to "*its most remote source or spring*." And by referring to the map, it will be seen that nothing but a local knowledge, surprisingly exact for the times, could have suggested a description so consistent with the hydrography of the country.

Having reached the most remote spring where the Land Portage begins, we find the old course, "*versus Septentrionem*," or north-west, again enjoined, and directed to be followed by a straight line drawn in that direction to the *nearest naval station, river, or spring, discharging itself into the great river of Canada*. Such a course leads directly to the east branches of the Chaudière, which are in the 46th parallel of north latitude, and on the ancient confines of Acadia. This, however, was a war grant, extending, as grants of that character sometimes did, to the St. Lawrence, to wit, *to the nearest naval station in the Great River of Canada*.

Now Quebec, nearly opposite to which place the Chaudière empties itself, is a naval station, and there is none other on the river, or even on the Gulf of St. Lawrence, for a distance of about 375 miles eastward, till we come to the Bay of Gaspé, which is spoken of in the grant as the next naval station. The evident intention therefore of the grant was, not to limit it by a due north line from the sources of the St. Croix, but by a north-west line running from the westernmost waters of the St. Croix to a point in the St. Lawrence, opposite to Quebec. It cannot be denied that this interpretation of the language of the grant is consistent with a singularly exact knowledge, for the times, of the relative situations of the mouth of the St. Croix River, and of the head waters of the Chaudière; and that any other interpretation is inconsistent with any knowledge whatever of the interior of the country.

We consider also that this construction of the grant of Nova Scotia derives great weight from its being supported by ancient maps still extant. It would be deemed reasonable if it stood only upon its own merits; but confirmed as it is by Coronelli's map dated 1689, of which the extract on map B, No. 3, has been already alluded to in a note at p. 12, we have conceived ourselves in duty bound to submit these observations with the collateral evidence to your Lordship. At the period when this map was published, the nature of the boundary of the Grant of 1621 must have been well understood, and if the western boundary of that Grant had then been considered to be a north line from the head of the St. Croix, crossing the St. John and reaching to the St. Lawrence, it would have been so laid down on some of the maps, which

we do not find it to be. On the contrary, the maps of that period; as we see by the instance quoted from Coronelli, carry a boundary line from the head of the St. Croix, in a north-westerly and westerly direction, to the head waters of the Chaudière, always south of the River St. John, and in its progress westward, separating the head waters of the Penobscot and Kennebec from the head waters of the Chaudière. The original map from which we have copied the Extract No. 3, has an engraved dotted line running from the St. Croix to the Chaudière, the south side of which is edged with a red colour for the British Colonies, and the north side with a blue colour for the French Colonies\*. At what period the mistake occurred which led to the erroneous construction found in so many maps, the effect of which is to carry a due north line from the sources of the St. Croix to the St. Lawrence, we know not; but it appears to have been subsequent to the year 1689.

There is another point connected with this subject, upon which we proceed to make a few observations.

On Mitchell's map, the Bay of Chaleurs is laid down one degree and forty minutes too far to the east in respect of longitude, and about forty minutes too far to the north in respect of latitude. This remarkable error perhaps deceived the American negotiators at the Peace of 1783; and the claim they now make to derive support to their 'highlands' from the circumstance of the western termination of the Bay of Chaleurs appearing, upon Mitchell's map, to be only about thirty-five miles from the River St. Lawrence, is much favoured by this error. The true distance is nearer seventy-five miles. On the same map, the westernmost sources of the River St. John are laid down about thirty miles from the St. Lawrence, whilst the true distance is about sixty-two miles. A line† drawn upon Mitchell's map from the western termination of the Bay of Chaleurs to the westernmost branch of the St. John, would pass to the north of that river; and a line drawn upon that map from the easternmost branch of the Chaudière to the western termination of the Bay of Chaleurs, would, if agreed upon as a boundary, throw the River St. John into the United States; but a line drawn from the true geographical position of the western termination of the Bay of Chaleurs, to the westernmost sources of the River St. John, if agreed upon as the boundary, would throw that river far to the north of the boundary line, and therefore on the British side of it‡. This most erroneous protraction of Mitchell's map led us to examine and thoroughly to investigate the discussions connected with the original grant of Nova Scotia in 1621, and we so discovered, that all the reasonings advanced in the discussions upon the boundary described in the grant, were founded upon a translation of that grant furnished by the American documents, and that this translation had omitted to give the proper sense of that particular portion of it which governs the true construction of the boundary it describes, viz.: "*Ad proximam navium stationem*," a point of the utmost significance; for it may be that one reason for using the term "*proximam*" was to distinguish Quebec from Gaspé, which, as it respected the former, was to be considered as *ultimam*. And if this word "*proximam*" was significantly inserted in the original Latin, it seems to have been as significantly overlooked in the American translation. That translation is as follows:—

"All and singular the lands upon the Continent, and the islands, situate  
"lying and being in America, within the head or promontory commonly  
"called Cape Sable, in the latitude of forty-three degrees nearly or there-  
"abouts, from that promontory along the shore stretching to the west to the  
"Bay commonly called St. Mary's Bay, thence to the north by a direct line  
"crossing the entrance or mouth of the great Bay, which extends eastward  
"between the countries of the Siriquois and Etchemins, so commonly called,  
"to the river commonly called by the name of the Holy Cross, or the St.  
"Croix, and to the furtherest source or spring upon the western branch of  
"the same, which first mingles its waters with those of the said river; thence  
"by an imaginary direct line, to be drawn or run through the country; or over

The erroneous protraction of a north line to the St. Lawrence, to the western boundary of Nova Scotia, introduced at some period posterior to 1689.

Remarkable errors in Mitchell's map. Vide Nos. 1 & 2 of map B.

Insufficiency of the official American translation of the Grant of Nova Scotia of 1621.

\* There is also a map of Guillaume Delisle, first published, we believe, at Amsterdam in 1722, which confirms that of Coronelli. It was republished in Paris in 1783. Vide Map B, No. 7.

† We have drawn a red line between those points on the extract from Mitchell's Map, vide Map B, No. 1.

‡ Vide the red line on Map B, No. 2.



“ the land to the north, to the *first bay*, river, or spring, emptying itself into  
 “ the great river of Canada, and from thence running to the east, along the  
 “ shores of the said river of Canada, to the river, *bay*, or harbour commonly  
 “ called and known by the name of Gachepe or Gaspée.”

It is to be observed of this translation, that all its inaccuracies are in perfect harmony as respects the results they produce, which are to turn away the attention of those who confide in it, from a literal interpretation of some very significant passages in the original Latin document; and the practical effect is to obscure the description of the boundary, in such a manner as greatly to prejudice the British claim. In the first place we find in this translation, ‘*versus Septentrionem*,’ which, as has been shown, is strictly equivalent to north-west, rendered every time it occurs, by the words “to the north;” so that by those words the readers of the translation must necessarily suppose a *due north line* to have been intended. Now, if the legitimate sense of ‘*versus Septentrionem*,’ be a *due north line*, where the boundary is directed to leave the westernmost waters of the St. Croix, why is not the same meaning to be applied to the words ‘*versus Septentrionem*,’ in the passage of the grant where the line is directed to cross the entrance of the Bay of Fundy, and where the course must of necessity be *north-west*? But if the words ‘*versus Septentrionem*’ in that passage were to be construed ‘*due north*,’ and the line were to be so drawn, that line would never reach the St. Croix River, but would pass forty miles to the east of it. The words ‘*versus Septentrionem*,’ therefore, must be rendered in both these cases in a consistent manner; and not in such a way as is totally opposed to the known bearing of the St. Croix River from St. Mary’s Bay. The expression ‘*to the north*,’ in the American translation, is therefore clearly an incorrect interpretation of the original words ‘*versus Septentrionem per directam lineam*,’ or *towards the north by a straight line*; meaning that course which we have shown was north-west.

Next we have, “*ad proximam navium stationem, fluvium vel scaturiginem in magno fluvio de Canada sese exonerantem*,” rendered “to the first bay, river, or spring, emptying itself into the Great River of Canada,” as though any *bay* in the ordinary meaning of the word, viz., a place where boats could receive shelter, would fulfil the intention of the grant, and be a true rendering of the words ‘*proximam navium stationem*.’ If it be assumed that the intention of the grant was not to give a line of boundary taking its direction from the westernmost waters of the St. Croix, to a *known* roadstead or naval station, but merely to draw a *due north line* to the St. Lawrence, may it not reasonably be asked, why was not the line directed to run *ad Septentrionem in magno fluvio de Canada*? If such was the intention, the mentioning of a *bay* or a *river* was superfluous. It could not have been held important for defining the limits of the grant, that there should be either one or the other at the point where the boundary reached the St. Lawrence, if the boundary were to be a *due north line* continued till it struck the St. Lawrence. Neither was it known at that time that either bay or river existed in the part of the St. Lawrence to which the American translation would draw this line. The small unnavigable streams taking their rise from twenty to thirty miles south of the St. Lawrence and north of the St. John, were unknown at that period, and would not have been dignified with the name of rivers, had they been known, seeing that in our times they serve only to float Indian canoes, and the pine logs which are sent down the streams to be manufactured into deals by the saw-mills constructed near their mouths. But if the intention had been to establish a line betwixt the westernmost waters of the St. Croix and the roadstead or naval station of Quebec, the words ‘*ad proximam navium stationem, fluvium vel scaturiginem in magno fluvio de Canada sese exonerantem*,’ would be full of significancy, since the Chaudière River, and the roadstead or naval station of Quebec, are both there, to correspond accurately with the words of the grant.

We believe it will not be denied that the specific meaning of the word ‘*statio*,’ when referring to naval matters, is ‘*a roadstead where ships may ride*.’ Upon this occasion, the words ‘*navium stationem*,’ clearly prove this to have been intended, and not any small bay or indentation on the river coast. Now, as there is not any roadstead to be reached by a *due north line*, and there is not even a safe anchorage in that part of the River St. Lawrence which such a line

would strike, we are compelled therefore to choose between Quebec and Gaspé, each of which is a "Statio" in the sense of the grant; but Gaspé being twice as distant from the westernmost source of the St. Croix, as Québec, this last must of course be considered the '*proximam stationem*.'

The same remark with respect to comparative distance, may be applied to the Chaudière, whose sources are nearer by one half, to the westernmost waters of the St. Croix than are any other sources of the small streams emptying themselves into the St. Lawrence, which could be reached by a *due north line*.

The American translation of the grant of Nova Scotia, which we have quoted, is an official one. It is printed in document 126 of the Houses of Representatives, forming No. I. of the appendix to the Message of the President of the United States, dated Washington, January, 1838, on the subject of the "Maine Boundary, Mr. Greely," &c.

The American translation, an official one.

The fact is worthy of attention, that the new construction which we have thought may justly be given to the boundary in the original Grant of 1621, carries the boundary to the very point where the American Congress, in 1779, and the American Commissioners for negotiating the Treaty of Peace of 1783, themselves placed the *north-west angle of Nova Scotia*, viz.: at the south-westernmost sources of St. John River, and at the Highlands which divide the rivers that empty themselves into the St. Lawrence, from those which fall into the Atlantic Ocean. And it is fair to infer that this general concurrence, so remarkably strengthened by the boundary descriptions in the ancient maps we have cited, has been caused by the known natural features of the country.

Having shown what was the probable intention of the Grant of Nova Scotia in 1621, as to the direction the boundary was to take, it will be useful at this point of the case, to trace out the process through which that passage in the II<sup>nd</sup> Article of the Treaty of 1783, which directs the eastern boundary of the United States to be run from the source of the St. Croix, *due north* to the "*Highlands*," came to be adopted.

The Grant of 1621 says nothing about a *due north line*, or about any *Highlands*; it merely directs the boundary of Nova Scotia to run from the mouth of the St. Croix to its extreme western source, and thence by an imaginary line, to the nearest naval station *towards* the north; and no part of this boundary was to form an angle with any other line, as in the case of the Treaty of 1783. But a misconception of the import of the language of that Grant had long prevailed; the words *versus septentrionem*, and "*imaginariam lineam directam*" had been taken generally to mean a *direct north line*; and many maps had conformed to that version of the Grant. It is, however, only after the conquest of Canada in 1763, that we find a *due north line* from the River St. Croix, recognised upon any occasion. Previously to that conquest, the Commissions of the Royal Governors in Nova Scotia contain no description of any boundary of that Province. In those instruments, these officers are merely termed, "Captains General and "Governors in Chief, in and over our Province of Nova Scotia, or Acadia, "in America, with all the rights, members, and appurtenances thereunto "belonging."

First introduction of the term "*due north line*."

The first time we find a *due north line* mentioned, is in the Royal Commission to Montague Wilmot, Esq., for the Government of Nova Scotia, in the following words:—

First used in 1763 in the Commission of Montague Wilmot, Esq

"By the said River (St. Croix) to its source, and by a line drawn "*due north* from thence to the southern boundary of our Colony of Quebec."

The same description of the boundary is contained in the Commission to Lord William Campbell, 11<sup>th</sup> of August, 1765; the words being,

"A line drawn *due north* from thence (*source of the St. Croix*) to the "southern boundary of the Colony of Quebec."

And this description is repeated in the Commission to Francis Legge, Esq., 22<sup>nd</sup> of July, 1773.

It has before been shown by the Royal Proclamation of 1763, as by the subsequent Act of the 14<sup>th</sup> of George III., 1774, that the southern boundary of the Colony of Quebec, was a line running from near the sources of the River Chaudière to the Bay of Chaleurs; the *due north line* then mentioned in the three Commissions just alluded to, being directed to stop at the



Reason for the insertion of the words "due north line," in the IIInd Article of the Treaty of 1783.

southern boundary of the Colony of Quebec, in like manner, as by the IIInd Article of the Treaty of 1783, it is enjoined to stop at the "*Highlands*." It appears therefore manifest, that the "southern boundary," and the "*Highlands*" are identical; and we think it equally so, that when the English Government, in 1782, rejected the American proposition to make the Saint John's River, from its source to its mouth, the boundary betwixt the two countries, and when the American Commissioners agreed to abandon their proposition that the northern boundary of the United States should go as far to the north as the St. John's, and when they consented to adopt the ancient boundary of the Colony of Massachusetts, viz.: the St. Croix boundary of Nova Scotia, it may be assumed that the joint Commissioners agreed to terminate the question, which had *been the subject of much contestation* betwixt them, by making the west boundary of Nova Scotia as described in Governor Wilmot's Commission of 1763, the eastern boundary of the United States; and thus it was that the term "*due north line*," became a part of the IIInd Article of the Treaty of Peace of 1783. Now, the reason for using the words "*due north line*" upon this occasion, was precisely that which gave rise to it in 1763. The English Government at that time, seeing that Pownall's *height of land* continued eastward from the westernmost branches of the Penobscot, to the eastern branches of that river, and onward, as far as the Bay of Chaleurs; and that the sources of the St. Croix River took their rise at some distance *to the south* of that "*height of land*," which in the Royal Proclamation of 1763, had been first termed "*highlands*," and was now to be declared the southern boundary of the Colony of Quebec; directed the interval between the source of the St. Croix and that southern boundary or "*Highlands*," to be filled up by a *due north line*. This we believe to be the true history of the introduction of the words "*due north line*," into the IIInd Article of the Treaty of 1783.

Submitting the reasonableness of our conclusions, most carefully made from one step of deduction to another, we desire to contrast them with the very irrational and intolerable inconsistencies that obtrude themselves, when considering the results that present themselves in a contrary sense.

The American Commissioners, during the negotiations of 1782, who had for their principal object to push the frontier of the State of Massachusetts as far as possible to the north, and who were, no doubt, greatly incited to this object by the presence in the Commission of Mr. John Adams, a native of that State, after contending for the River St. John to be the boundary between the two countries from its mouth to its source, *at which last source, they declared the north-west angle of Nova Scotia to be*, finally agreed to abandon their proposition of going so far to the north, and consented to settle upon the ancient western boundary of Nova Scotia. The English Government had rejected the American proposition, to make the St. John the Boundary, because it was inexpedient that the Boundary of Massachusetts should go as far north as that river; yet, although no convention, treaty, or agreement of any kind between the two countries has, in the slightest degree, changed the relation between them, since that time, as respects this point, the Americans now say, that the same Article of the Treaty of 1783, gives them an indefeasible right to all the country sixty miles north of the very same river, which they had before formally abandoned all right to come up to from the south.

The abandonment of the St. John as a boundary, in 1782, by the American Government, and the pretension in our own times to go beyond it, irreconcilable.

This pretension is as much opposed to common sense, as would be an assertion, that when the British Government denied to the United States any participation in the navigation of the River St. John, it intended to surrender the exclusive navigation of it for 150 miles of its course; and this becomes still more manifest, when we look to the impossibility of such a conclusion being in the contemplation of the British Commissioners, who had peremptorily, by Order of the King's Government, rejected the proposition to carry the Boundary of Massachusetts as far north as the St. John's River. How is it to be reconciled to the opinion which Dr. Franklin expresses of Mr. Strachey? In one of his letters, he designates this gentleman as a most *acute and shrewd person*; and in a letter to Mr. Livingston, dated 5th December, 1782\*, he further says of him:—

\* Vide Franklin's printed private correspondence.

“After some weeks as Under-Secretary, Mr. Strachey arrived, *with whom we had much contestation about the Boundaries*, and other articles which he proposed. We settled some, which he carried to London, and returned with the propositions, some adopted, others omitted or altered, and new ones added, which you will see in Paper No. 2\*. We spent many days in discussing and disputing; and, at length, agreed on and signed the preliminaries, which you will receive by this conveyance.”

In addition to these considerations, we may add, that there does not appear in the proceedings of the Congress, as published in the Secret Journals of Congress, or in the records of the Proceedings of the American Commissioners, or in any publication of any kind whatever to which we have had access, the slightest intimation, that any individual in the revolted Colonies, up to the ratification of the Treaty of Peace in 1783, or for many years subsequent to that period, ever dreamed of proposing to carry the Boundary of Massachusetts to the north of the River St. John. So far from this, we have in addition to the proposition on the part of the United States, to carry their boundary as far to the north as the St. John's River, and which is mentioned at page 19, further evidence from the high authority of the Congress, that that river was the extreme limit to which they pretended to go.

We find it recorded in their secret journals, that a Committee of Congress, in a report dated 16th of August, 1782, endeavoured to show that the expression used in the Grant of 1664 to the Duke of York, to designate the beginning of that grant, viz.: “a certaine place called or knowne by the name of St. Croix,” meant the territory adjacent to the river, and not the river itself; we quote the following passage from their report. “The place, therefore, called St. Croix, adjoining to New Scotland, was most likely intended to describe the *lands* between the River St. Croix and St. John's. History does not inform us that any particular spot of them was known as St. Croix†. But as the first course of the grant to the Duke of York plainly runs from Nova Scotia to Massachusetts along the sea coast, it is probable that it was to begin at the first point in the country of St. Croix, on the coast. This must have been on St. John's River. *And as the last line of the grant is not closed*, it is more agreeable to the usage of those days, to adopt a natural boundary. *For this purpose St. John's River was obvious as far as its head*, and afterwards a line to the Great River of Canada.”

Secret Journals of the old Congress, Vol. iii. pp. 174, 175.

In this passage is contained a direct avowal that the northern boundary of Massachusetts had not been determined; and that the Congress, only four months before the preliminaries of peace were signed, entertained no pretension that the northern boundary of Massachusetts was to extend beyond the right bank of the St. John from its source. Since therefore, by the abandonment of all pretension to go up to that river, they virtually acknowledged its course to be entirely within the Royal territory, it results by an unavoidable consequence, that the rivers which the Treaty of 1783 described as discharging themselves into the St. Lawrence and into the Atlantic Ocean, must by necessity have been the Chaudière, the Kennebec, and the Penobscot. And this explains the omission of all mention of the River St. John in the Treaty; for in a Treaty, the express object of which was to define the boundaries of the United States, now for the first time separated from the parent country, it was obviously unnecessary even to allude to a river which confessedly rose and emptied itself within the King's retained dominions, and no part of the course of which lay within the territory intended to be ceded to the newly constituted State.

Reason why there was no mention of the River St. John in the Treaty.

This will more clearly appear by reference to the map; for if the north-west angle of Nova Scotia were,—as asserted by the American negotiators under their instructions from the Congress, as late as the 14th October, 1782,—at the source of the St. John, and if the boundary, as proposed by them, were to run from the source of that river, “along the Highlands which divide those rivers which empty themselves into the River St. Lawrence from those which fall into the Atlantic Ocean, *to the north-western-most head of Connecticut River*,” a distance not exceeding eighty miles, then

North-west angle of Nova Scotia.

\* This paper has never been produced.

† We have shown at page 11, that L'Escarbot designates the “particular spot,” and origin of the name, with great precision.



the line, in order to reach the Connecticut River, must of necessity run along the lofty Highlands which divide the Chaudière from the Kennebec and the Penobscot. It is manifest, therefore, that if the Treaty had directed the boundary to begin at the head of the Connecticut River, which is a known point, and to run along the Highlands in a north-easterly direction towards the Bay of Chaleurs, as described in the Royal Proclamation of 1763, the question would have been settled upon the first attempt.

And again, with respect to the American assertion that the north-west angle of Nova Scotia had always been a known and determined point, it is worthy of remark, that the proposition as originally made by the American Commissioners, and as provisionally agreed to by Mr. Oswald, the English Commissioner at Paris, the 8th of October, 1782, was in the following words:—

“The said States are bounded, north, by a line to be drawn *from the north-west angle of Nova Scotia*, along the Highlands which divide those rivers which empty themselves into the River St. Lawrence from those which fall into the Atlantic Ocean, to the north-westernmost head of Connecticut River,” &c.

If then the British Government had ratified Mr. Oswald’s Act, the proposition of the American Commissioners to make the south-westernmost sources of the River St. John the *north-west angle of Nova Scotia*, would have received the sanction of a Treaty; and, in fact, the II<sup>nd</sup> Article of the Treaty as ratified, differs in nothing from the proposition just cited, except in the insertion of the following words, immediately after “Nova Scotia,”—

“Viz., *that angle which is formed by a line drawn due north from the source of the St. Croix River to the Highlands.*”

So that we have the Americans *declaring* in 1782, that the north-west angle of Nova Scotia was at the sources of the St. John, while they now contend that this same angle has always been near the sources of the Metis. Yet these two points lie at a distance of 176 miles from each other.

But it can be proved even by one of the highest authorities amongst the Americans themselves, that the assertion, that the north-west angle of Nova Scotia is a known and determined point, is contrary to the fact. Mr. Sullivan, one of the most distinguished men the United States have produced, a Governor of the State of Massachusetts, and author of the “History of the District of Maine,” was selected on account of his admitted competency to the task, to be agent on the part of the United States, to the Commission constituted under the Treaty of 1794, to decide which was the true River St. Croix. Mr. Sullivan, in his argument before the Commission, says;—

Opinion of the American Statesman, Mr. Sullivan, that the north-west angle of the Treaty had no existence.

“The Treaty contemplates a line running on the Highlands so as to divide the rivers which run into the St. Lawrence from those which fall into the Atlantic Ocean; but whether this is to be a direct or crooked line is not ascertained in the Treaty. If it divide those rivers as above expressed, there can be no pretence of its being a straight line. It is either in its general inclination or in its direct course to run to the north-westernmost head of Connecticut River. *There can be no angle existing, as known to any man, until those lines are formed, for the point of their inclination is but a mathematical deduction from a perfect recognition of the lines themselves.*”

“We find no place for this angle, prior to the Treaty of 1783, and are now left to form it by running the lines in that Treaty agreed upon.

“In order to determine that place as nearly as could be done, it was agreed that a certain river, which had heretofore been known and called by the name of the River St. Croix, and which had been deemed and received as the eastern boundary of the Province of Massachusetts Bay, should be taken as a part of the boundary, and that to fix a line from the source of that river to the Highlands, both as a line for the Government of Massachusetts and Nova Scotia, it should run due north; and that the limitation of that line should be in what should ultimately be found, *when the country should be explored, to be the Highlands.*

“The Highlands had, in the year 1763, been made the boundary of Quebec, or the Lower Canada boundary, *but where the boundaries or High-lands are, is yet resting on the wing of imagination.*

“We are as entire strangers to the Highlands, and the sources of the rivers on either side of them, as we are to the sources of the Nile. There can

"be no doubt that the north-west angle of Nova Scotia is yet to be formed, "and that this is to be done by forming the north-east angle of the State of "Massachusetts."

We consider these passages to be conclusive as to the impossibility of executing the Treaty of 1783, without the two Governments first agreeing upon the line of Highlands.

The abandonment of all pretension to go up to the St. John, was also a renunciation of all claim to participate in the navigation of that river; yet now the Americans claim the absolute possession and exclusive navigation of it, one hundred and fifty miles from its source eastwardly; a claim which involves the gratuitous surrender to a foreign Power, not only of our communications between Quebec and New Brunswick, but of a territory more than one hundred miles wide, which they never had possession of, and which is not necessary to them. Such a claim is surely incompatible with the "reciprocal advantages," "the mutual convenience," the "liberal equity and reciprocity," the "security of perpetual peace and harmony," recorded by the Preamble of the Treaty of 1783, as being the objects which the Contracting Parties intended to attain.

We come now to speak of the Treaty of Amity, Commerce, and Navigation with the United States, which directs the manner in which the River St. Croix is to be identified. By the Vth Article, a commission was appointed, consisting of one commissioner from each country, with power to choose a third. The three were to be sworn to decide according to evidence,

Treaty of Amity, &c., of 1794, to identify the St. Croix.

"What river is the River St. Croix intended by the Treaty?"

They were to furnish a description of the river; and to "particularise "the latitude and longitude of its mouth and *its source*."

And their decision was to be "*final and conclusive*."

They had thus two objects to accomplish, one to identify the river, the other to fix the latitude and longitude of its source.

We have already shown—First, that the grant of Nova Scotia in 1621, made the westernmost waters of the St. Croix a part of its boundary; Secondly, that the boundary in the Charter of 1691 was thus described:—

"The territory called Accadia, or Nova Scotia, and all that tract of land "lying between the said territories of Nova Scotia and the said Province of "Maine;" and in another part of the said Charter in these terms:—

"The lands and hereditaments lying and being in the country or territory commonly called Accadia, or Nova Scotia, and all those lands and "hereditaments lying and extending between the said country or territory "of Nova Scotia, and the said River of Sagadahoc, or any part thereof."

And thirdly, we have shown that the Congress in 1782 adopted a report from one of their Committees, which declared,—"With respect to the "boundaries of the States, &c., Massachusetts claims under the Charter "granted by William and Mary, October, 1691:" a declaration, which as we have remarked at page 20, Mr. John Adams, under oath, stated to have received the sanction of the American Plenipotentiaries upon concluding the preliminaries of peace in 1782. "One of the American Commissioners," said Mr. Adams, "at first proposed the River St. John, as marked on Mitchell's "map, but his colleagues observing that as the River St. Croix was the "river mentioned in the Charter of Massachusetts Bay, they could not "justify insisting on the St. John as an ultimatum, he agreed with them "to adhere to the Charter of Massachusetts Bay."

We have thus a regular recognition of Massachusetts being bounded upon Nova Scotia, and of the most western waters of the St. Croix forming part of the boundary of Nova Scotia\*. And how was the duty of the Commissioners under the Treaty of 1794 performed?

Disregarding the obvious propriety of choosing the most western source of the river, they fixed upon the north branch; and this in the face of the most extraordinary evidence against their proceeding. For the Scoodeag, which is the known Indian name of the St. Croix, runs from its most western source to its mouth, under the same name of *Scoodeag*, whilst its northern branch, which comes in at the upper falls, bears the separate

Error of the Commissioners under that Treaty, in fixing the point of departure of the due north line twenty miles too far to the east.

\* In Evans' map of 1755, the North boundary line, which appears in so many maps, takes its departure from the *most western source* of the St. Croix.



Meaning of the  
word Scoodeag.

name of *Cheputnaticook*. The westernmost sources of the Scoodeag are in a low, flat, lake country, consisting of many lakes running into each other, and hence the Indian name given to that part of the country and to the river; for *Scoodeag* means *low, swamp meadow*. Now the very continuity of its name should have convinced the Commissioners of the impropriety of deviating from that line. But the British Commissioner was overruled. He had, in conjunction with the American Commissioner, chosen an American gentleman, upon whose intelligence and integrity he relied, for the third Commissioner. This gentleman was, in point of fact, an umpire to decide all differences which might arise; and the American Commissioner having claimed a stream called *Magaguadavic*, lying still further to the east than the *Cheputnaticook*, to be the true St. Croix, the British Commissioner consented to a compromise, the result of which was, that although they made a correct decision as to the identity of the St. Croix, they practically decided to adopt the north source, as if it had been the most western source. That these gentlemen went out of the line of their duty, as prescribed in the Treaty of 1794, is evident; and much future expense and misunderstanding would have been saved, if their report had been restricted to the identification of the river. This will be seen by looking to the map.

The Saint John, like all other large rivers, occupies the lowest level of the country through which it flows, and holds its course through a valley of considerable breadth, which below Mars' Hill extends, in a modified manner, some distance to the westward of the bed of the river. The nearer a *due north line* could be brought to the Saint John, the better the chance was that it would run up that valley, whilst the further it lay to the west, the greater was the certainty of its missing that valley and of its more speedily meeting the highlands of the country. And this has in practice proved to be the case; for the exploratory north line drawn from the monument, reached no highlands until it came to Mars' Hill; whilst if the line had started from its true point, the westernmost waters of the *Scoodeag*, it would have reached the "highlands" about twenty-five miles south of Mars' Hill, near to the point where they separate the St. Croix (a tributary of the Roostuc) from the waters of the *Meduxnakeag*, which flows into the St. John. These highlands are distinctly visible from the American post at Houlton, and are about fifteen miles, magnetic west, from that post. This deviation of the Commissioners from their duty, which has had a most unfortunate influence upon the settlement of this great question, was besides highly prejudicial in another respect to the British rights. If it should be ultimately assented to, it will lose to Great Britain more than one million of acres of land.

Explanatory  
Article of 1798,  
made part of the  
Treaty of 1794.

In 1798, an explanatory Article was added to the Treaty of Amity of 1794, releasing the Commissioners from their obligation to conform to the provisions of the Vth Article of the Treaty, in respect to particularizing the *latitude and longitude* of the *source of the River St. Croix*; and declaring, amongst other things, that the decision of the said Commissioners "respecting the place" ascertained and described to be the source of the said River St. Croix shall be permanently binding "upon His Majesty and the United States."

The true source of  
the St. Croix, at its  
north-westernmost  
head.

Upon this, we beg to remark, that it has been made sufficiently manifest, that the Treaty of 1783 intended that the point of departure of the *due north line* should be at the westernmost source of the St. Croix, the description of the western limits of Nova Scotia having been regularly maintained unaltered in all the documents from the grant of 1621. The proceedings of Congress, also, as found in the secret journals, always speak of "*the boundary settled between Massachusetts and Nova Scotia*," and of the line being to be settled "*agreeably to their respective rights*."

To all these considerations, we add the important fact, that in the Vth Article of the Treaty of Ghent, it is stipulated that the ascertainment of the north-west angle of Nova Scotia, is to be made "in conformity with the provisions of the said Treaty of Peace of one thousand seven hundred and eighty-three." A fact which further confirms the general obligation to consider the most western waters of the St. Croix, as the true boundary of Nova Scotia.

The irresistible conclusion then presents itself, that it is indispensable to the faithful execution of the IIInd Article of the Treaty of Peace of 1783, that

the commencement of *the due north line* be drawn from the north-westernmost source of the St. Croix; and that whatever mistakes may have hitherto crept in, during the attempt to settle this question, the two Powers, in order to execute the Treaty, must at last go back to that point. It is true that Her Majesty's Government may be considered, looking to the explanatory Article, as pledged to abide by the decision of the Commissioners under the Treaty of 1794, yet this pledge was given before the proceedings of those Commissioners were known to be in violation of the Treaty of 1783, and when the nature of their compromise was not understood. That compromise was one-sided in every respect. The acknowledgment that the river decided upon was the true St. Croix, could not have been avoided. The ample means of identifying it have long been public. But in return for that acknowledgment, Great Britain is asked, by the selection of a wrong point for the source of that river, to lose a territory of more than one million of acres of land, and has been subjected in consequence of that erroneous decision, to much expense and trouble, by the delay in the execution of the Treaty of 1783.

The Treaty of 1783 cannot be faithfully executed without commencing the due north line at the north-westernmost waters of the St. Croix.

If then, the United States had ground for refusing to be bound by the adjudication of the King of the Netherlands, under the Convention of the 29th of September, 1827, which by Article VII. of the Convention was to be taken as "final and conclusive," because his adjudication was a compromise, and not a decision upon points submitted to him, and was not conformable to the conditions required by the Treaty of 1783, how much better ground has Great Britain to refuse its sanction to the proceedings of the Commissioners of 1794, now that they are discovered to be in violation of the Treaty of 1783, at the same time that they are the main cause of the difficulties which have lain in the way of the execution of that Treaty!

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## PHYSICAL GEOGRAPHY OF THE COUNTRY.

THERE is no part of the surface of the globe where the tendency of the rock strata to run north-easterly and south-westerly in parallel ridges, is more strongly marked than in North America.

A slight inspection of the Map suffices to prove this. It is so much the inherent character of the Continent, that the Atlantic Coast, from the 30th to the 46th degree of North latitude, influenced by that geological principle, presents an outside line corresponding to the direction of the strata. From any part of the coast, north of the 35th degree, the country gradually rises in a north-west course to the Alleghany Mountains. These mountains consist of a belt of elevated land, varying from fifty to eighty miles in breadth, occupied by ridges running for the most part parallel to each other, in a mean direction of north-east and south-west, and separated by valleys, in many of which the heads of the Atlantic Rivers take their rise, flowing on until they are able to escape to the south-east, and to empty themselves into the Atlantic. In all these valleys the rocky beds conform, and even with greater constancy than in the ridges, to a north-easterly and south-westerly direction, and are always tilted up, more or less, at a considerable angle with the horizon. To the west of this system of mountains, the beds become horizontal for a great distance, and occupy that very extensive area usually called the valley of the Mississippi; but east of Lake Ontario the country falls once more under the influence before spoken of, and the River St. Lawrence runs parallel with the strata and ridges of the country, as well as with the direction of the coast. The investigations of individuals who have travelled extensively in North America, confirm what is obvious to local observers, that at some remote period, the waters have everywhere retired from higher levels. This is manifest in the valley through which the St. Lawrence flows. On the right bank of the river there is, for

The line of the Atlantic Coast in North America, influenced by the direction of the Rock Strata.

The course of the River St. Lawrence conforms to the direction of the Strata.

Retreat in ancient times of the waters



in North America,  
from higher levels.

some distance below Quebec, an alluvial border of land, part of the ancient bed of the stream, in many places twenty miles broad, bounded on the south-east by a more elevated country, along the crest of which, once the right bank of the river, various hills with occasional peaks are seen, much separated from each other, but once probably more united into a continuous, irregular, curved line, trending north-easterly and south-westerly.

The strata on each  
side of the St.  
Lawrence once  
united.

To the geological eye, this crest appears to have been, in remote times, united to the strata on the left bank of the St. Lawrence, the beds there following the same magnetic direction, and having the same mineralogical connection, until they reach the 48th parallel of north latitude at Chicoutami, in the vicinity of Lake St. John. This break in the continuity of the strata probably occurred on the retreat of the waters from their higher levels, leaving the great western lakes to discharge their surplus waters by the valley of the St. Lawrence. As the volume of water to be discharged diminished in quantity, the drainage would necessarily be carried on in the lowest level of the valley, and thus leave the broad alluvial border which has been before noticed.

The alluvial border  
on the right bank  
of the St. Law-  
rence, the ancient  
bed of the river.

On advancing in a north-westerly direction into the interior, from the mouth of the Bay of Fundy, we find a strong correspondence with the physical geography of the more southern portion of the American continent; here also the country rises in elevation, the strata follow the north-easterly and south-westerly direction, the ridges hold the same course, and are usually parallel to each other, but very much broken down and separated into detached parts by the action of powerful currents, which seem to have passed across this part of the continent, contemporaneously with the formation of the valley of the St. Lawrence.

Surface of the  
country in the  
disputed territory  
modified by the  
passage of powerful  
currents.

The remains of these abraded ridges are found strewed and deposited in every part of the country, and the banks of the River Saint John, and those of its tributary, the Roostuc, often consist of a depth of from twenty to thirty feet of the comminuted ruins of the older rocks. This state of things is most obvious between the parallels of west longitude  $67^{\circ} 50'$  and  $69^{\circ} 30'$ , the ridges having an uninterrupted continuation east and west of those points\*. Reverting to the gradual rising of the country from the Atlantic Coast, we find that we cannot give a more accurate description of it, than that which is contained in an American work before alluded to, the "Statistical View of the District of Maine," published by Mr. Greenleaf, in 1816. That Author thus describes it:—

Greenleaf's descrip-  
tion of the elevated  
district in Maine,  
1816.

"With the exception of a small tract at the eastern extremity, and  
"some detached elevations along the central part of the north-western  
"boundary, the *mountainous part* of the district may be included within an  
"irregular line drawn from the line of New Hampshire, not far from the Saco  
"River, thence proceeding north-easterly, and crossing Androscoggin River  
"near Dixfield, Sandy River above Farmington, Kennebec River above Bing-  
"ham, the west branch of the Penobscot at the Lake Pemmidumpcok, and  
"to the *east branch of the Penobscot*, near the mouth of the Wassataquoick;  
"thence north, so far as to include the heads of the Aroostook; thence, south-  
"westerly to the head of the Moosehead Lake, and thence westerly to the  
"boundary of the district, near the *sources of the Du Loup*. The greatest length  
"of this section is from south-west to north-east about 160 miles, its greatest  
"breadth about sixty miles, and it comprises about one-seventh part of the  
"district. No observations have been made to ascertain and compare the  
"height of the different elevations in this section, but from estimates which  
"have been made on the falls of the rivers, proceeding from different parts of  
"it, and from the much greater distance at which the mountains in the western  
"parts are visible, it is evident that the western, and particularly the north-  
"western part is much higher than the eastern, and the *section in its whole*  
"*extent* may be considered as *presenting the highest points of land* between the  
"Atlantic and the St. Lawrence."

His description  
agrees with the  
Highlands of the  
Treaty.

By reference to the map it will be seen that the southern edge of this section of elevated land, thus described, runs north-easterly from about  $43^{\circ} 20'$  to  $46^{\circ}$  north latitude; and that if it were further protracted easterly, it

\* This is shown by the section from the Bay of Chaleurs to the south-eastern sources of St. John's River, traced on the margin of the map.

would continue along that elevated part of the country, where we, in the map, place the axis of maximum elevation of the whole country to the Bay of Chaleurs. It will be seen also that the due north line of the Treaty, if drawn from the most western source of the St. Croix, would strike the southern line of Mr. Greenleaf's elevated section of country, precisely at those Highlands before spoken of at page 36, as separating the Meduxnakeag and the St. Croix of the Roostuc. Mr. Greenleaf has given a very just idea of the extent of this elevated country, considering how little general information existed on this subject at the period when he wrote. The breadth of his section, as he calls it, exceeds however the number of miles he has assigned to it; the distance from the Wassattaquoik to the elevated crest before spoken of as being the south-east limit of the ancient bed of the St. Lawrence being at least 100 miles.

We have delineated on the map the southern edge of the elevated country described by Greenleaf, and it will be seen that it runs far to the south of the Roostuc, and even of the elevated peak, called Mars' Hill, the peaks east of the Saint John, called Bear Mountains and Moose Mountain, and other lofty peaks in the range of Highlands extending to the Bay of Chaleurs. If the second Article of the Treaty of 1783 were to be expounded consistently with Greenleaf's description of the elevated part of this country, which description is known to be founded in truth, the *due north line*, which is directed to run only to the Highlands, would have accomplished its function on reaching the southern edge above mentioned; and we repeat, that a *due north line* from the most western waters of the St. Croix, must of necessity stop at those Highlands of which we have before spoken, which separate the St. Croix of the Roostuc from the Meduxnakeag, and which are connected with the axis of maximum elevation, of which we shall now proceed to speak.

There are various lines of what have once been continuous ridges, more or less elevated, traversing in a north-easterly direction this disputed territory, some of which have been so abraded and broken down that they are nearly obliterated, leaving only peaks at great distances from each other, but in the same magnetic direction. We shall only speak of three principal ones; the first in order being the ridge of which the Bald Mountains, rising in north latitude  $45^{\circ} 45'$ , form a conspicuous part, and which trends north-easterly by an irregular and much broken range, comprehending the Kataaden Mountain with the adjacent peaks, Mars' Hill, and other peaks, in the same direction. The other two ridges being, one of them the line of Highlands overlooking the Saint Lawrence, and claimed by the Americans to be the Highlands of the Treaty of 1783, and the other, the only line of Highlands which manifestly fulfils the intentions of the Treaty, and the character of which we shall now examine more in detail.

Description of the ridges in the disputed territory.

These two ridges, as will be apparent from an examination of the map, are the main branches of a common stem, which runs between the River Hudson of the State of New York and the Connecticut River, and which divides into two branches on reaching the forty-fourth degree of north latitude.

The southern branch\*, holding its course north-easterly, throws down from its south-east flank, the head-streams of the Connecticut River, those of the Androscoggin, and those of the Dead River (a branch of the Kennebec River), a little to the north of the forty-fifth degree of north latitude; whilst on the opposite or north-west flank the most southern head-streams of the Chaudière River take their rise. Continuing its north-easterly course, it separates the Du Loup, another branch of the Chaudière, from the most western sources of the Penobscot River which discharges itself into the Atlantic Ocean. This ridge is the one which Pownall describes, and which the Royal Proclamation of 1763 fixes as the southern boundary of the Government of Quebec, viz.:—

“The said line, crossing the River St. Lawrence and the Lake Champlain, in forty-five degrees of north latitude, *passes along the Highlands which divide the rivers that empty themselves into the said River St. Lawrence, from those which fall into the sea.*”

Having separated the Du Loup from the western sources of the Penobscot, the ridge now tends more to the eastward, but always in a bold continuous manner, until it reaches west longitude  $69^{\circ} 40'$ , when the peaks become separated

One of the ridges is identical with the “height of land” of Pownall, and the Highlands of the Royal Proclamation of 1763.

\* Vide map A.



And forms a part of the axis of maximum elevation.

It passes south of the Roostuc River to the St. John; and, from the valley of the St. John eastward to the Bay of Chaleurs.

occasionally by wide gaps, the portions connecting the peaks being, nevertheless, very elevated. As it passes further to the east, its continuity becomes more interrupted, it assumes a character of much less elevation than it maintains west of seventy degrees of west longitude, so that when it reaches  $68^{\circ} 32'$  west longitude it takes a subordinate character, although it still continues to form a part of the axis of maximum elevation. Thence passing north-easterly, and intersected at times by the Roostuc River, west of the tributary stream called St. Croix, this ridge throws down the eastern branches of Penobscot to the south, and keeping its course by a well-defined elevation, south of the Roostuc, it strikes the valley of the River St. John, nearly opposite to the mouth of the Tobique River\*. From that point eastward, the country again rises rapidly in elevation, and preserves the same character in a continuous elevated range, interrupted only by a few slight depressions, until it approaches the shores of the Bay of Chaleurs.

The section of elevations which we have placed on the left margin of the map, taken between the extreme points, viz., the Bay of Chaleurs and the sources of the St. John, with the barometrical heights in English feet, will give a just view of the elevation of the country along the whole line. We have not been able, for want of room, to place upon this section all the barometrical elevations we have taken betwixt the River St. John and the Bay of Chaleurs. Neither do all the elevations taken by us appear on the map, the scale upon which it is projected not admitting of their being all placed on their respective localities.† That part of the section nearest to the Bay of Chaleurs only represents the height of the land on the northern face of that portion of the axis of maximum elevation which runs between the points above spoken of. A line running westerly from Bathurst, and a little to the south of Middle River, gives a series of elevations in English feet above the sea, from east to west, as far as Nictor Lake, where the line joins the series of elevations of the northern face, as follows: 236, 378, 550, 714, 815, 779, 802, 873, 1,049, 1,078, 850, 1,367, 1,934, 1,261, 819, 1,845, 2,110, 1,583, 1,846, 2,110. The distance upon which these elevations are distributed is about fifty-six miles; a few of these were taken upon conspicuous peaks, but the intervals between them are continuously of a lofty character. The general aspect of the whole line corresponds with its height, and is mountainous. The Nepisiquit River, which flows to the east, and which empties itself into the Bay of Chaleurs at Bathurst, takes its rise, together with its northern branches, in this chain; as likewise does the Upsalquitch, which flows to the north to join the Restigouche. From Nictor Lake, the axis continues to the River St. John, in a south-westerly direction, trending between the Tobique River and the Salmon River, in a bold continuous ridge, varying from 750 to 1,000 feet. On the west side of the St. John it reappears on the south bank of the Roostuc, near the Falls of this River, where it has an elevation of 710 feet. From thence, the section, with the heights expressed in English feet, exhibits the elevation of the country to the sources of the St. John. We have not continued it any further to the south-west, as the ridge from thence preserves a continuous lofty character to the head-waters of the Connecticut River, with an average height of about 2,000 feet. We thought it unnecessary to extend the section to so great a distance, nor could we have done it conveniently upon the proper scale.

This axis of maximum elevation is therefore the true Highlands of the Treaty of 1783.

We therefore present this axis of maximum elevation of the whole country as the true Highlands intended by the II<sup>nd</sup> Article of the Treaty of 1783, uniting to the character of "Highlands," as contra-distinguished from Lowlands, the condition required by the Treaty, of dividing the "rivers that empty themselves into the St. Lawrence from those which flow into the Atlantic Ocean, to the north-westernmost head of the Connecticut River." It will be seen hereafter, that this is the only part of the disputed territory where "Highlands" of a similar character are to be found.

\* This is admitted in the report of the American surveyor to Mr. Bradley, agent on the part of the United States, filed May 22, 1818, in the proceedings of the Commissioners under the V<sup>th</sup> Article of the Treaty of Ghent. His words are:—

"The next ridge we passed over on the line was at the fifty-first mile, it appears to connect with the ridges which form along the St. John River, and divides the waters of the River des Chutes from those of the Listook (Roostuk). This ridge, though of moderate height, appears somewhat higher than any we passed on the line south of it. Its extent to the west is apparently not great, but not particularly known. From the above ridge the land descends moderately to the Listook River." First Statement on the part of Great Britain, p. 59.

† See Appendix containing record of barometric observations.

The *northern branch* of the main trunk above mentioned, leaves the southern branch which we have just described in about forty-four degrees north latitude, and pursuing a more northerly course round the heads of the River St. Francis, passes to the north of the Lake St. Francis, and crosses the Chaudière, in the parallel of Lake Etchemin (north latitude  $46^{\circ} 25'$ ). From thence, running west and north of the last-mentioned lake, it may be said by its occasional peaks to hold a course nearly parallel to the River St. Lawrence, at a mean distance of about twenty miles, until it reaches the district of Gaspé. Of this northern branch it is to be remarked, that it is indebted to the character which has been given to it, of a ridge of Highlands, not to the circumstance of its being a true continuous chain, which actually divides waters running in opposite directions, but to the fact of a number of peaks, far removed from each other, falling nearly within the same magnetic direction. Observed from great distances, these isolated peaks naturally assume an apparent continuous character; but on nearing them, we find them separated by wide intervals, occasionally of twenty or thirty miles, of marshy tabular lands, where the heads of the streams, flowing in opposite directions, frequently overlap each other, so that the streams which flow south, in the greater number of cases, frequently rise far to the north of the heads of the streams which flow north into the St. Lawrence.

Description of the Highlands claimed by the United States as the Highlands of the Treaty of 1783.

For instance, the northern branch of the Mittaywawquam\*, a conspicuous western branch of the St. John, emptying itself into that river, in  $46^{\circ} 33'$  north latitude, takes its rise to the north of some of the most elevated of the peaks before spoken of, encircling them round from the west. Twenty-five miles east of those peaks occurs another group of like character. Here the sources of the Black River take their rise, about ten miles north of the peaks, which constitute a group, and in the same swamp where the streams called Ouelle and Du Loup take their rise, both of which empty themselves into the St. Lawrence. Forty miles further to the north-east is another set of very elevated peaks, the highest of which are called "Grande Fourche" and "Jean Paradis," both of which are passed on the Temisquata Portage. Here the peaks are almost contiguous to each other. But the source of the St. Francis, one of the tributaries of the St. John, which falls into it, in north latitude  $47^{\circ} 12'$ , rises north of those peaks, whilst the sources of the Rivière Verte and Rivière Trois Pistoles, both of which flow north into the St. Lawrence, take their rise south of the sources of the St. Francis, and of the peaks in question. Further to the north-east, the head-waters of the Rimousky take their rise so far to the south as almost to be joined to the head-waters of Green River, which discharges itself into the St. John, in north latitude  $47^{\circ} 17'$ , and the sources of the Metis†, which run into the lake of that name, take their rise near twenty miles south-east of the peaks, which form a part of that apparent continuous chain before spoken of.

This being a true description of the topographical nature of that line of country, where the Americans claim the "Highlands" of the Treaty of 1783 to be, it is superfluous to add that it is in every respect deficient in that most essential character which the Treaty requires it to have, viz. of dividing "those rivers that empty themselves into the River St. Lawrence from those which fall into the Atlantic Ocean."

The American Highlands do not divide rivers flowing in opposite directions.

In point of fact, no rivers are divided in their course, at any point of the country, along the line thus claimed by the Americans, as carrying out the intentions of the Treaty.

But your Lordship will have observed that the line thus claimed by the Americans, as the "*Highlands*" of the Treaty of 1783, is equally deficient in another point expressly named in the II<sup>nd</sup> Article of the Treaty, as the most essential character of the "*Highlands*" therein described, and the absence of which is an unqualified condemnation of these pretended "*Highlands*." The language of the II<sup>nd</sup> Article is:—

"Along the said Highlands which divide those rivers that empty themselves into the St. Lawrence, from those which fall into the Atlantic Ocean, to the north-westernmost head of Connecticut River."

We have shown, as the map will explain, that there are only two branches

\* The Canadians have corrupted this word into Daaquam. It means literally Mast River, from *mittay*, a mast; the immense quantity of spruce-trees growing in the swamps near its western heads, giving to the country the appearance of a forest of masts.

† This stream was named Beaver River when it was struck by the "due north" exploring line in 1818.



springing from the mountainous chain which runs between the Connecticut and the Hudson River, and that these branches separate near the parallel of forty-four degrees north latitude. *The southern branch*, it has been seen, gives rise to the north-westernmost head of Connecticut River; and continuing its course from the heads of that river in a north-easterly direction, actually separates the St. Francis and the Chaudière, the *only* rivers which empty themselves into the St. Lawrence, from the *only* rivers which fall into the Atlantic Ocean, viz., the *Androscoggin, the Kennebec, and the Penobscot*.

The southern branch continuing to head all the branches of the Penobscot across the whole breadth of the disputed territory, would, when reaching the due north line, fulfil in the most accurate manner the requirements of the Treaty. Wherever the *due north line* strikes the edge of this branch of the "Highlands" of the country, there would be the point of locality of the north-west angle of Nova Scotia mentioned in the Treaty. But the *northern branch*, which, on separating from the southern one, takes a course a little east of north, *leaves the north-westernmost head of Connecticut River from forty to fifty miles to the south*. This circumstance of itself is conclusive; for if this ridge had been (what it is not) continuous as far as the *due north line*, and if it had separated rivers flowing in opposite directions (which it does not), yet the simple fact of its having no connection with the "Highlands" where the Connecticut River takes its rise, and of its passing at a distance of from forty to fifty miles north, away from the sources of that river, would deprive it of all reasonable pretension to be the "Highlands" intended by the Treaty of 1783.

It now becomes our duty to lay before your Lordship an explanation of the manner in which it has been heretofore attempted by some of the official American Agents, to give to their so-called line of Highlands the character which the language of the II<sup>nd</sup> Article of the Treaty of 1783 requires that the "Highlands" of the Treaty should actually possess. Your Lordship will see in these details, that it has been apparently the policy of the parties in question to substitute fancy for reality, and to endeavour to boldly put forward as fact a state of things which was for the most part hypothetical and conjectural, in order to draw away the attention of the public in both hemispheres, from the real merits of the British claim, and to transfer it to their own spurious topography; and that it is by this expedient that they have so far succeeded in giving to a large territory, rightfully belonging to Her Majesty, a character of doubtful ownership, under cover of which, the increasing population of the State of Maine has been able to insinuate itself into various important points of the disputed territory, with the object, at length openly avowed, of taking possession of the whole country, as far as the crest which over-looks the River Saint Lawrence, from the point opposite to Quebec, as far as the Metis River.

The official documents, in which the expedients we have here alluded to, are worked out, are too voluminous to be quoted at length in this Report; but they are to be found annexed to the "First Statement on the part of Great Britain;" referring to which, we shall merely give an abstract, descriptive of their character.

In an extract from the British Commissioners' Report, at p. 148 of the "First Statement," &c., it appears that the Surveyors of the two Governments were directed by the joint Commissioners to "proceed upon an exploring survey, upon a line due north from the lake at the source of the River St. Croix, until they should arrive at some one of the streams or waters which are connected with the River St. Lawrence."

It is alleged in the British Commissioners' Report that this direction "was framed and inserted in the draft of the original instructions to the Surveyors, by the Agent of the United States, and this fact is not denied by him."

The sanctioning of this instruction was no doubt indiscreet on the part of the British Commissioner. The terms of the Treaty were not ambiguous; they enjoined the parties to run the due north line to the *Highlands*, and not to STREAMS RUNNING INTO THE SAINT LAWRENCE. By a just interpretation of the Treaty, it was manifest that the Saint Lawrence Rivers, there intended, were the St. Francis and the Chaudière; and not any of those *minor streams* which alone can be reached by a *due north line* drawn from the source of the St. Croix; but the joint instruction to the Surveyors to carry the due north line to the waters of the Saint Lawrence, was virtually a direction to extend the line to the Metis; and hence, the inadvertent concurrence of the British Com-

The American Highlands do not run to the headwaters of the Connecticut River.

Spurious topography presented by American surveyors.

Of which the proofs are to be found in the First Statement on the part of Great Britain, p. 148.

missioner in this instruction was made to carry along with it an implied sanction, on his part, of the gratuitous assumption, that the Metis flowed from the Highlands of the Treaty.

The American Agent was not slow to avail himself of the success of his manœuvre, and at the close of that survey of the *due north line*, he produced a map, exhibiting a chain of "Highlands" running *uninterrupted by any gap or depression whatever*, from the source of the Metis in west longitude  $67^{\circ} 55'$ , to the sources of the Ouelle, in west longitude  $70^{\circ}$ , writing in conspicuous characters over them these words:—

"The Highlands which divide the rivers emptying into the River Saint Lawrence, from those which fall into the Atlantic Ocean."

At the meeting of the Commissioners in 1819, the American Agent had the address to procure that fictitious map to be filed in the joint proceedings; so that when the misrepresentation in this map had attracted the attention of the British party in the joint Commission, and a motion was made to take the map off the files, the American Commissioner refused his consent to the proposition, and it thus became a part of the Records of the joint Commission. The Agent of the United States, however, in a rejoinder to a memorial from the British Agent on this subject, thought it necessary to declare his persuasion, "that the more scrupulously the lands which Mr. Johnson (the surveyor) states *that he saw* north of the River Saint John, and over part of which he is stated to have passed, should be surveyed, *the more would Mr. Johnson's description be corroborated*, and the more satisfactory would be the proof that they are the identical Highlands described in the Treaty."

American Commissioner refuses to consent to a fictitious map being taken off the files.

It seems that the American Agent believed that the British Commissioner would be compelled, on account of the nature of the country west from Mars' Hill, to maintain that the "Highlands" of the Treaty did not require that any *visible elevation*, after the manner of a conspicuous chain, should be a necessary quality in such Highlands, but that a table land sufficiently elevated to throw waters in opposite directions would be enough; and he, therefore, deemed it prudent to assume for the American argument, that Highlands of great visible elevation were an indispensable quality to satisfy the words of the Treaty; such being the character of the Highlands which Mr. Johnson, the American surveyor, stated that he had *seen*, and which he had depicted on his map.

In the following year, Mr. Johnson, it appears, was withdrawn from the survey, and a Mr. Burnham, on the part of the United States, was appointed to succeed him. This gentleman and Dr. Tiarks, the British astronomer, co-operated in a satisfactory manner in the examination of the country west of the *due north line* betwixt Lake Temisquata and the Metis. They appear to have sought to inform themselves with accuracy of the relative situation of the waters flowing into the Saint Lawrence and the Saint John, and came to the same conclusion in their maps and reports, that the streams flowing in the opposite directions, just mentioned, were not divided by Highlands, as Mr. Johnston had represented;

Fallacy of Mr. Johnston's map exposed by the joint survey of Mr. Burnham and Dr. Tiarks.

"And that so far from there being in these places a ridge separating the waters running in opposite directions, they found insulated points, without the least chain of connection."

Upon the delivering in of the maps and Reports of the New American Surveyor, the Agent of the United States, who had taken his stand upon *visible Highlands*, endeavoured to extricate his cause from the dilemma he had brought it into, by the following passage of his argument:—

"If the lands between the Restigouche and Metis *were not characterized by peculiar elevation*, compared with peaks and mountains which might exist in any other direction, still the argument in favour of their adoption, as the true Highlands, would remain unchanged; for it is particularly *due north* of the River St. Croix, that we are to look for the Highlands mentioned in the Treaty, since they are necessary to form the important angle in question. The word 'Highlands' is not used merely to denote a single mountain, or a *continued unbroken ridge of mountains, running in one direction*" (this, however, was the ground he had taken in 1819, when he said Mr. Johnson's descriptions would be corroborated), "but generally to describe an elevated or mountainous region, of which the surface must necessarily be very unequal, such is commonly to be found in all sections of country in which numerous rivers take their rise; and since the very principle of gravity demonstrates that the general elevation of a

Attempt of the American Commissioner to change the principle of his argument;—Vide First Statement on the part of Great Britain, p. 154.



"country is greater at the source of a river than at its outlet, the *lands which*  
*"separate rivers*, running in contrary directions, would naturally be considered  
 "as the Highlands which lay between, or divide them, particularly as relating to a  
 "country, the topography of which was not fully ascertained; a more definite  
 "description of such 'Highlands' was hardly possible to be given."

Another spurious  
 map offered to the  
 Commissioners by  
 the American  
 agent.

It further appears that, notwithstanding that Mr. Burnham, the new United States' Surveyor, who had co-operated with Dr. Tiarks, in 1820, had admitted the fallacy of Mr. Johnson's map, as far as respected that part of the country lying between the Lake Temisquata and the source of the Metis, yet the American Agent, at a meeting of the Commissioners, exhibited a map, entitled "A Map of the Country explored in the years 1817, 1818, 1819, and 1820, by order of the Commissioners, under the Vth Article of the Treaty of Ghent," signed "Hiram Burnham, United States Surveyor, under the Vth Article of the Treaty of Ghent," and upon this map re-appeared the fictitious Highlands of Mr. Johnson, extending west from Temisquata to the head waters of the Ouelle, with a *further spurious addition*, about eighty miles in extent, from thence to the head waters of the Chaudière; whilst no report connected with these inventions, or explanatory of them, was communicated with the map.

Protested ains  
 by the British  
 agent, and chal-  
 lenged by him to be  
 proved under oath.  
 First Statement on  
 the part of Great  
 Britain, p. 158.

The British Agent lost no time in entering a protest against a map of so fictitious a character, and proposed that the American Surveyors should be examined, upon oath, as to their map being an accurate representation of the natural features of the country; offering at the same time to subject the map of the British Surveyors to the same kind of verification, by interrogatories to be prepared by the Agent of the United States. To this, the American Agent rejoined, that the map of the British Surveyors had "wholly omitted the greater part of the Highlands in the direction in which the boundary is claimed by the United States, thereby giving to his map an effect entirely partial; and thereupon insisting that this map (the map of the British Surveyors) *should not be received in evidence before the Commissioners*, and that the said map furnished by the Agent of the United States should be permitted to be "filed."

The matter was finally disposed of by a decision of the Commissioners, entered upon their journal in the following words:—

"The Commissioners having duly considered the memorials of His Majesty's Agent of the 26th of September, and the answer thereto of the Agent of the United States of the 27th of September, and likewise the memorial, in reply, of His Majesty's Agent of the 29th of September, do order that all the reports and plans alluded to in the said memorials, be filed by the Secretary, except *the two general maps*. On the said general maps, no order allowing them to be filed is made, as the Commissioners differ in opinion; Commissioner Barclay being in favour of allowing the general map presented by His Majesty's Agent to be filed, and of excluding that presented by the Agent of the United States; and Commissioner Van Ness being of opinion that both of the said general maps ought to be filed, or neither of them. On the question of going into an examination, at this time, of the surveyors, under oath, the Commissioners differ in opinion; Commissioner Barclay being in favour of that course, and Commissioner Van Ness against it."

American Commis-  
 sioner withholds his  
 consent to have the  
 surveyors exam-  
 ined under oath.  
 Recapitulation of  
 the conduct of the  
 agents of the  
 United States.

It appears, then, on a review of this singular proceeding, that in the year 1819, Mr. Johnson, the American Surveyor, attempted and succeeded in placing upon the files of the Joint Commissioners, a spurious and fictitious map. That in the succeeding year another American Surveyor, Mr. Burnham, was employed, who co-operated with the British Astronomer, Dr. Tiarks, in the investigation of that part of the country lying between Lake Temisquata and the source of the Metis. That they agreed in finding that part of the country void of such Highlands as Mr. Johnson had reported, viz.: a continuous chain of Highlands along the whole line. But that Mr. Burnham added to the western part of his map about eighty miles of continuous Highlands, of the existence of which no other proof than that map, was adduced by him. That the British Agent objected to this map, and presented a map by the British Surveyor, representing the country as Mr. Burnham and Dr. Tiarks had conjointly seen it, offering at the same time to have the Surveyors on both sides, examined, under oath, as to the accuracy of their respective maps. That the American Commissioner, however, declined acceding to the proposal; and because the map of the British Surveyor, which truly represented the state of the country, did not

contain the spurious Highlands of Mr. Johnson's map, he refused to consent to its being filed, unless the map of Mr. Burnham, with an addition of eighty miles of fictitious Highlands, were filed at the same time. *By this management, the British map, the correctness of which the Surveyors were prepared to prove under oath, was excluded as evidence in the case.*

The British map of Dr. Tiarks, excluded from the files.

By reference to the Map A, your Lordship will observe that no chain or ridge is found extending from the most southern source of the Ouelle to the easternmost sources of the Metjarmette, yet it is along a line extending between those two points that the American surveyor protracted his fictitious hills. As the verification or disproval of this ridge, was a matter of vital importance in the controversy about the Boundary, we were very careful to examine that part of the country, in order that our Report might effectually dispose of the matter one way or the other, consistently with the truth. We, therefore, after a careful examination of all that part of the country, between the mouth of the Mittaywawquam, where that river joins the River St. John, and the eastern sources of the Etchemin River, unhesitatingly declare that the ridge inserted in the American map is entirely fictitious, and that there is no foundation in the natural appearance of the country for such an invention. Had anything of the kind been there, we must unavoidably have seen it, and have crossed it on our way from the mouth of the Mittaywawquam to Lake Etchemin; the course of that fictitious ridge, as represented in the American map, lying six or seven miles east of the sources of the Mittaywawquam, and about ten miles east of Lake Etchemin. And it is singular enough that precisely at the point where the pretended ridge crosses the Mittaywawquam, and for many miles around, the country is a low flat swamp, the streams issuing from which have such a sluggish course, that there is scarcely a perceptible current, or one sufficiently established to give visible motion to a feather. Over no part of the country which we traversed from the St. John to Lake Etchemin, does the elevation exceed fifty feet, nor is there any visible elevation at any point of the course. It is only west of Lake Etchemin that the Highlands, claimed by the Americans as the Highlands of the Treaty of 1783, are found. These are visible from a distance of several miles, and are a portion of the Highlands which we have spoken of at p. 41 as the *northern branch*.

The Highlands laid down on the American maps from the southern source of the Ouelle, to the easternmost sources of the Metjarmette, are now found, upon an examination of the country, to be fictitious.

Of a still more singular character have been the whole of the proceedings relating to the point, which the Americans have thought proper to assert, is the *north-west angle of Nova Scotia* intended by the Treaty of 1783.

Proceedings of the American surveyors in relation to their assumed north-west angle of Nova Scotia.

It has already been stated, that in 1817, the British and American Commissioners, under the Vth Article of the Treaty of Ghent, directed their surveyors to run an exploratory line due north from the source of the St. Croix, "until they arrived at some one of the streams or waters which are connected with the River St. Lawrence."

These Surveyors, Colonel James Bouchette, Surveyor-General of Lower Canada, on the part of the British Government, and Mr. Johnson on the part of the United States, proceeded accordingly to survey a due north line, throughout a distance of ninety-nine miles from the St. Croix. In 1818, Mr. Odell having then been substituted for Colonel Bouchette, the exploratory due north line was further continued to the 145th mile from the St. Croix, at a point where it struck a stream flowing into Lake Metis, which they called Beaver River. Having reached that stream, these Surveyors did not extend their survey to the west, but returned to the south to examine the country about Mars' Hill. Nor is there any evidence of the Americans having, at any time, surveyed the country west of the due north line, even in order to trace out and establish that particular line which they claim to be the Highlands of the Treaty. On the contrary, we have their own confession that they have never done so; derived, too, from the highest authority, representing those most interested in the American claim. In proof of which we quote the following passages from the Annual Address of Mr. Kent, the Governor of the State of Maine, to the convened Legislature of the State, dated January 2, 1839. Speaking of the proposal on the part of the American Government to that of Great Britain, for the establishment of a new Commission of Survey and Exploration, he says:—

The American Agents have never examined the country where they claim their Highlands to be.

"It is for you to judge, whether any beneficial effects, equal to the inconvenience and injury by the great delay which must be occasioned, are likely to result from a mere Commission of exploration and survey only, of the whole



"extent of the line, from the head of the St. Croix to the north-westernmost head of Connecticut River; especially since the examination and survey, which have been made during the past season by Maine, of the most important part, *which had not been sufficiently examined before.*"

Survey of the Commissioners of Maine in 1838.

The survey here spoken of as having been made during the then past season, was one entrusted to Mr. John C. Deane, Mr. M. P. Norton, and Mr. James Irish, as Commissioners of Maine, to whom Mr. William P. Parrott was attached as surveyor. The Report of these gentlemen, of which we shall have hereafter to speak, was made to Governor Kent, under date of December 31, 1838.

The Governor then proceeds to state, that neither the State of Maine, nor that of Massachusetts had ever "attempted any examination" of the line claimed by them, up to that period.

Admission made by the Governor of Maine in his annual address to the Legislature, dated January 2, 1839, that the Americans had never examined their own line.

"It is a fact worthy of notice, *that this State and the Commonwealth of Massachusetts* by their Land Agents, have surveyed and examined the whole line, as claimed by Great Britain, from Mars' Hill to our Western Boundary, but have NEVER until the *present year, attempted any examination of the true line, as claimed by us.*"

Again, the Governor says:—

"And it is a singular fact, that after that time (1818), no *American* surveyor, or authorized agent, has ever *examined or traced the height of land*, or given any account of the character of the country, about the north-west angle of Nova Scotia."

From these passages we must infer, that up to the close of the year 1838, the Americans had no evidence whatever of the existence of anything like a line of "Highlands," corresponding to the language of the Treaty of 1783, in the place where they had all along asserted it to be. It was probably apprehended that the attempt to examine it would lay bare the fallacy of their pretension.

Commissioners of Maine instructed in 1838 to examine their Highlands.

The nature of the duty enjoined upon these Maine Commissioners, is explained in a letter addressed to Sir John Harvey, Her Majesty's Lieutenant-Governor of the Province of New Brunswick, by the Governor of Maine, and dated September 25, 1838. They were "to move on a due north line towards the height of land where is to be found the spot which we claim as the north-west angle of Nova Scotia, and also in like manner, *tracing and examining the northern line along the Highlands* which divide the rivers falling into the St. Lawrence from those falling into the Atlantic Ocean."

As the information to be communicated by the Report of these Commissioners was, by the Governor's admission, the first geographical information the Legislature of Maine would possess about the nature of the country to which their claim relates, we quote another passage from his Annual Message communicating the results at which the Commissioners had arrived:—

Report of the Maine Commissioners of 1838, as described by Governor Kent. Their north-west angle of Nova Scotia, stated to be from 2,000 to 3,000 feet above the sea.

"Their Report, which I have the pleasure to transmit to you, will be read with interest and satisfaction. By that it appears that the exploring line was found marked to near the north-west angle; that the base of the country rises constantly and regularly from the monument at the head of the St. Croix to the angle; which is from *two to three thousand* feet above the level of the sea, and more than 500 feet higher than the Kedgewick, one of the streams running into the Bay of Chaleur near the said angle and the St. Lawrence waters; that the due north line, if continued to the valley below the north-west angle, actually strikes the St. Lawrence waters, and that the country is high, *and even mountainous about this spot.* And there is no difficulty in tracing a line *westwardly along distinct and well defined Highlands*, dividing waters according to the Treaty. The extensive and correct map\* of the north part of our State, and the southern portion of Canada, and the VERTICAL SECTION, as prepared by Mr. Parrott, the surveyor, with neatness, and *accuracy*, which accompany the report, add much to its value and interest. Taken together, they exhibit the true character of the country, and leave little or nothing to be desired illustrative of it."

We now proceed to quote some passages from the Report of the Commissioners themselves, premising that the Governor in his annual message never asserts that they had executed any part of his instructions "tracing and examining

\* We have never seen this map.

"the northern line along the Highlands," which in his letter to Sir John Harvey, he stated was to be part of their duty; but he confines himself to saying:—

"And there is no difficulty in tracing a line westwardly along distinct and well defined Highlands," &c.

From the Commissioners' Report itself, it appears that they never attempted to enter upon that part of their duty; of which fact we also received authentic information when in the country. What the Commissioners do say, is:—

Language of the Report itself; of the Maine Commissioners of 1838.

"The land at the northern part of the exploring line, and in the region round about it, is found to be sufficiently high to divide the rivers emptying themselves into the River Saint Lawrence from those which fall into the Atlantic Ocean."

In another passage they say:

"We also find by our exploration and examination, that there is no uncertainty or difficulty in tracing and locating the line from the north-west angle of Nova Scotia, westwardly, along distinct Highlands, which divide the rivers, &c., as described in the Treaty of 1783."

This extraordinary manner of speaking of the most important line of the Treaty of 1783, and which itself is the salient point of contention, is a proof that they had no facts to bring forward in support of their claim. That there is to be found "at the northern part of the exploring line, and in the region round about it, land which may be sufficiently high to divide the rivers," &c., is an assertion not worth refuting, when so vaguely made upon such an occasion. The Highlands at Temisquata are in that region, and only fifty miles from that point, and if they were continuous during a sufficient distance, they would divide all the waters flowing into the St. Lawrence from those flowing south, though not from those flowing into the Atlantic Ocean. The reason why the American Commissioners did not enter upon the examination of the country westwardly, is explained in the following passage:—

"The Metis River limited the explorations to the northward, and when the explorations in that region were interrupted by the weather, and could not be continued for the want of provisions, the exploring was continued south towards the monument."

In point of fact, these gentlemen turned back without having made any investigations in the neighbourhood of the Metis, the cold weather having set in with great rigour, and their provisions barely sufficing them for the journey back. If they had penetrated the country to the northward, and had discovered the apparent chain we have before spoken of at p. 41, whose peaks fall under the same magnetic direction, they would have found it continuing its course north-easterly, about eighteen miles distant, in a direction north, 47° west, from where the due north line strikes the Beaver River. And as the last-mentioned stream rises still further to the south-east than the point where it is struck by the north line, it is plain that the chain, instead of dividing at this point the streams running into the Saint Lawrence from any other waters, runs through the country at least twenty miles north of the points where the sources of the Metis are.

The Commissioners of Maine turn back without examining their Highlands.

It being evident that the report of these gentlemen has thrown no light whatever upon the nature of the country west of their pretended north-west angle, we come back to the assertion of Governor Kent, that the said point is "from 2,000 to 3,000 feet above the level of the sea, and that the country is high, and even mountainous about that spot."

Examination of Governor Kent's assertion that the pretended north-west angle at the Metis, is from 2,000 to 3,000 feet above the level of the sea.

This assertion he makes upon the responsibility of his Commissioners; but the statement is so extremely at variance with the fact, and with the results of the careful observations which we made when in that part of the country, that we have felt ourselves bound to examine critically into the grounds which the Commissioners of Maine had for assuming a fictitious elevation, the exaggerated height of which they must have deemed necessary to the essential character of the spot which they have so strenuously claimed to be the north-west angle of the Treaty.

Of the altitude of this point, we have to report that it is rather under than over four hundred feet above the level of the sea; an estimate which we are not afraid to submit to the most rigid scrutiny, having, independently of our barometrical admeasurements, made other careful computations deduced from the current of the Metis, down to the point where it empties itself into the St. Lawrence, making a proper allowance for three falls upon the stream, one of

True height of the American north-west angle of Nova Scotia, not quite 400 feet.



them about 100 feet high, another about twenty-five feet, and a third about eight feet.\*

Explanation of the probable basis of the erroneous computation of the Maine Commissioners respecting the elevation of their north-west angle of Nova Scotia.

The following passages from the Report of these Commissioners, appear to furnish the key to the cause of the strange discrepancy betwixt these estimates.

"Admitting the different streams (the Restigouche and its branches) to be of the same height above the level of the sea, the Metis or Beaver Pond is 531 feet higher, a base line from which, drawn south, will show a general inclined plane, descending from thence to the monument at the source of the River St. Croix, and that the general elevation of the Highlands will be *between two and three thousand feet* also above the level of the sea. HERE IS THE PLACE where the Treaty of 1783 describes the north-west angle of Nova Scotia to be."

We find no materials specified in this Report to prove the existence of such "a general inclined plane," as the one here spoken of, save in the following passage:

"According to the principal British surveyor, under the Vth Article of the Treaty of Ghent, in 1817, in Colonel Bouchette's survey, vertical section and profile of the country from the monument, ninety-nine miles north, Sugar Mountain is shown to be the highest land upon or near the line in that distance from the monument, which is undoubtedly the fact. They also exhibit a continual rise in the base of the whole country, as indicated by the level of the streams, and the land over which the line passes, to the waters of the Restigouche. It shows the Meduxnakeag to be higher than the monument, and the Presqu'Isle, the De Chute, the Aroostook, Saint John, and Grand Rivers, all rising successively, one higher than the other above the level of the sea. And the Waggansis at the termination of the ninety-nine miles, is higher above the level of the sea than any river south of it. A copy of Colonel Bouchette's Survey and profile is, for the purpose of illustration, annexed to our map."

It being necessary in the execution of our duty to report the true elevation above the sea of that point where the official agents of Maine place their north-west angle of Nova Scotia, it has appeared to us not less necessary to account, if possible, for the wide difference between the 400 feet which we report, and the "from 2,000 to 3,000 feet" reported to their Government by the Commissioners of Maine. It is with great reluctance, therefore, that we state our conviction that it has originated in a singular delusion on the part of Col. Bouchette, Her Majesty's Surveyor-General of Lower Canada; we therefore proceed as our duty enjoins us, to put your Lordship in possession of the truth, with regard to a mistake which we think has had much to do in creating in the United States erroneous ideas respecting the line claimed in that country as the "Highlands" of the Treaty of 1783.

We have already stated that Col. Bouchette was associated by the Joint Commission, in 1817, with Mr. Johnson the American Surveyor, for the purpose of running an exploratory North Line, and Col. Bouchette, after conducting the exploratory line, reported a section of elevations to the Commission under the following title:—

"Section showing the different Heights of Land between the Monuments at the Source of the St. Croix, and the First Waters of the Restigouche at the Extremity of the Exploring Line."

Section reported by Mr. Bouchette.

This Section, which bears his official signature of "Jos. Bouchette, S. General," exhibits an inclined profile of the country from the monument at the source of the St. Croix to the Great Waggansis, a stream flowing into the Restigouche, with several of the streams intersected by the *due North Line* in its course.

Vide Map B, No. 5.

We shall accompany this Report with a copy of Colonel Bouchette's Section†,

\* The distance from the south end of Lake Metis to the mouth of the stream at the Saint Lawrence is about thirty-six miles in a straight line. There are three lakes, in all about thirteen miles long, leaving twenty-three miles of river. Allowing a fall of ten feet to the mile, which is an extravagant estimate, the height of the spot claimed by the Governor of Maine as being 2,000 to 3,000 feet above the level of the sea, would stand thus:

10 feet fall per mile for 23 miles	.	.	.	.	.	.	.	230 feet.
3 falls above-mentioned	.	.	.	.	.	.	.	133 "
Fall from the source of the Metis to the lake on a meandering course	.	.	.	.	.	.	.	} 25 "
for 12 miles	.	.	.	.	.	.	.	

388 feet.

† The original section has a perpendicular scale at each extremity, which gives the elevation of the different points. We have been obliged on account of the diminutive Scale upon which we have

which is altogether erroneous. All the points on the Section being vitiated by one universal error which pervades it, we shall only specify one of those points, viz., That where the *due North Line* strikes the St. John. This point, the height of which we know by repeated barometrical measurements, and by actual *hand level* made from tide water to the Great Falls of the St. John, does not exceed 300 feet above the level of the sea, Colonel Bouchette has put down at 1,850 feet; making that point 1,000 feet above the level of the monument, and the monument 850 feet above the level of the sea.

As the section of Colonel Bouchette proceeds farther to the north, it proportionately ascends; so that the Great Waggansis is made to stand at 2,050 feet above the level of the sea, when probably its true elevation is only about 350. Reverting then to the passage quoted from the Report of the Maine Commissioners, where they say that the Metis is 531 feet higher than the Restigouche and its branches, and adding that height to the 2,050 feet allowed to the Waggansis, we have a total of 2,581 feet to represent what they have stated would be between *two and three thousand feet*.

We cannot doubt that this is the process by which they have arrived at their conclusion, and that their fallacious estimate is not the result of any observations made by themselves. To Colonel Bouchette's error of 1,700 feet, they have added a conjectural elevation between the Restigouche and Lake Metis, equally erroneous, making the sum total of error equal to 2,150 feet. We add that it is quite impossible for any surveyors having but a slight practical acquaintance with the nature of inequalities prevailing over the surfaces of countries, not to have perceived, whilst passing over that part of the country which is the subject of these estimates, that such estimates would be rejected as altogether erroneous, when its elevation was properly examined. But in proof how small the elevation of the surface [at this part is, the previous Reports of the American Surveyors themselves may be quoted. Mr. Johnson, in his Report to the American Agent, filed May 22, 1818, gives some description of the country, through which the North Line was run from the St. John's River to the Waggansis, at the ninety-ninth mile. He says:

"After rising the northwardly bank of the St. John, we found the country *mostly flat and swampy*, until about the ninety-first mile, where a moderate ridge divides the waters of Falls River from those of Grand River. North of Grand River, between the 93rd and 94th miles, is a ridge, which, though probably higher than any land we had passed over on the Line, appears not to be of *any considerable extent*. From this to the 98th mile we passed *through a large swamp*, which gives rise to the Waggansis of the Grand River."

Such is the character of the country all the way from the St. John River to the north bank of the Quotawamkedgic, a tributary of the Restigouche, being, in fact, a succession of swamps with occasional low ridges of limited extent; the apparent height of the country being increased to the eye of inexperienced persons, by the deep beds which the Restigouche and its branches, especially the Quotawamkedgic, have worn. After the ascent of the hill on the north bank of this last stream, the country descends gently the whole way to the point where the exploratory North Line strikes the stream which runs into Lake Metis. Now the point where the exploratory North Line leaves the St. John is only 300 feet above the level of the sea; it is evident, therefore, from what has been stated, that there is nothing on the whole Line from thence to the Metis that can

Cause of the error of 2,150 feet, in the estimate of the American Agents.

copied the original, vide Map B, No. 5, to express the figures in English feet, in the same line with the names of the points indicated. Beneath our copy of Colonel Bouchette's section, we have placed by way of comparison, an outline of our "Section of the country along the due north line," which is on the margin of Map A; with a few corresponding elevations at different points, in order to illustrate more clearly the great disproportions between the two sections, and which is at once seen by the following table.

	Col. Bouchette's Section.	The Section below.
The Monument .....	850	450
Park's .....	1,160	770
Meduxnekeag River.....	1,000	270
Presqu'île River .....	1,180	180
Land South of Mars Hill .....	1,470	500
Goosequick .....	1,350	200
River des Chutes.....	1,385	200
Roostuc River.....	1,470	180
River St. John.....	1,850	300
Great Waggansis River .....	2,065	400



further raise the general elevation of the country to any great extent; and as to the occasional ridges which have been alluded to, there is not one of them, even if it had any continuity, that has any connexion with that Line of Highlands claimed by the United States as the Highlands of the Treaty of 1783\*.

Review of some of the results of the preceding pages.

We have endeavoured in the preceding pages to explain how, from very inadequate causes, the Public in the United States have been led to entertain such strong but erroneous opinions of the right of that country to the disputed territory.

In regard to the ancient occupation of the country, we have shown that the concessions made by the Government of France in 1684, of lands lying north of the 46° of north latitude, were ordered to be held *of the Governor of Quebec*.

The Fief of Madawasca was granted in 1683, eight years before the date of the Charter of Massachusetts in 1691.

But the Fief of Madawasca† was granted by the French Government in 1683, one year before this last period, and *eight years before the Charter of William and Mary was granted to the colony of Massachusetts in 1691*; and although that Fief is held under its original title to this day, the United States nevertheless claim it as lying within the disputed territory. Other concessions of a similar character exist; and it could be proved that Canadian and New Brunswick jurisdiction obtained uninterruptedly in the disputed territory, up to the year 1814, without any adverse claim having been put in by the United States.

The due North Line run in 1817 and 1818 was only an exploratory one, not intended to bind the parties.

With respect to the due North Line which was run in 1817 and 1818, and which we have traced on the Map, a very general misunderstanding obtains respecting it. That line never was intended to have any validity as a practical execution of the Treaty, or to be any thing but an experimental and exploratory Line, to aid in the examination of the country for discovering the "Highlands" of the Treaty. The joint Commissioners, indeed, did, as we have already stated, authorize an "actual survey" of a due North Line from the source of the St. Croix, and that survey was undertaken; but it was almost immediately afterwards abandoned, in consequence of the imperfection of the method adopted, and on account of the disagreement of the surveyors. As respects the due North Line, then, nothing has been accomplished by the two Governments. Nevertheless the United States, acting as though the due North Line had been surveyed, and agreed upon by both parties, and as though any part of the disputed territory adjacent to it had been formally ceded to them by Great Britain, have already taken possession of the country to within twelve miles of the town of Woodstock in New Brunswick, and have erected a strong military fort and barracks at a place called Houlton, which has been for some time garrisoned by a detachment of the United States' army.

Encroachment of the United States at Houlton.

There is yet another point to which we desire to draw the attention of your Lordship.

Vide Map A.

\* We have placed a section on the right margin of the map, showing approximatively the level of the country between the Monument at the St. Croix and the point where the due North Line struck the Beaver River.

† The Fief of Madawasca is a tract of land entirely distinct, and at some distance from the settlements of Madawasca. These last are constituted by a continuous succession of small farms on each bank of the River St. John, extending from within five miles of the Great Falls of the St. John to even the vicinity of the mouth of the St. Francis. A person who reaches this last point from the sources of the St. John considers himself at the outskirts of the Madawasca settlements. We had some Frenchmen in our employment when on the Survey, whose parents lived in the more dense parts of the settlement nearer to the Madawasca River, and these men resided at the mouth of the St. Francis. Betwixt the St. Francis and Fish River many Americans are settled, and some even to the east of Fish River. Amongst the first Americans who began to settle in that part of the country, about 1823, was Mr. John Baker, who applied for a bill of naturalization to become a British subject, and asked for and received a premium from the British agricultural fund. All the settlers on the banks of the St. John, within the distance we have spoken of, are of French origin, and Roman Catholics, with the exception of a few Americans who have recently moved in there. The settlements first began near the Madawasca River, and continuing to extend west and south of that stream, have been constantly called the Madawasca Settlements the whole extent of their long line. There is a Roman Catholic chapel on the right bank of the St. John, about eight miles from the mouth of the Madawasca River, for the use of the upper part of these Settlements. Baker resides four miles still further to the west than this chapel, and was convicted in 1825 in the Supreme Court at Fredericton, for acts of resistance to the British laws, committed on the place where he has always dwelt. Fish River is about twelve miles from the Madawasca. Vide Map B, No. 6, where the houses of the settlers are laid down, from observation, on their respective localities.

Vide Map B, No. 6.

Had the award of the King of the Netherlands been accepted by both countries, the Treaty, nevertheless, could not have been executed; for when the line along the "*thalweg*" of the St. John had got to its termination up the St. Francis, and had taken its western departure from thence, according to that award, it never would, as we have heretofore shown, have come within forty to fifty miles of the "north-westernmost source of the *Connecticut River*," where the award of the King of the Netherlands directs it to go.

It is also to be remarked, that a fluctuating state of things such as existed in former times in that part of North America, of which the territory now in dispute with the United States forms a portion, could not fail to produce, at different periods, numerous maps, where the lines of demarcation between parties claiming adversely to each other, would be laid down in such a manner as to enforce, as much as possible, the claims of parties interested in the establishment of these several lines. Previously to the war with France, in 1756, when the great conflict for power in North America began between the two nations, many maps of North America were produced in England, in which the British claims were extended by lines of demarcation to the River St. Lawrence. These grew out of the war titles which have been spoken of; and new editions of such maps appeared, even after the grants made by the British crown had been virtually revoked by the various Treaties of Peace which have been enumerated. The British Colonies in North America were especially interested in keeping the French to the left bank of the St. Lawrence; and it was probably more with a view to the protection of those Colonies, than for the sake of mere dominion, that the British Government claimed all the country east of the Kennebec and north to the St. Lawrence. The claims of Great Britain, to that extent, are recorded upon various maps; but nevertheless we do not find that, either previously to the expulsion of French power from North America, when the whole country fell under the rule of the King of Great Britain, or subsequently to the Peace of 1763, the Northern Boundary of Massachusetts was ever settled. This being the case, the existence of maps published in England from the Peace of Utrecht in 1713, down to the present times, exhibiting the claims of Great Britain carried out to the River St. Lawrence, or even representing a *due North Line* reaching to supposititious "Highlands" near to the St. Lawrence, would furnish no evidence in support of the claim of Massachusetts to extend its territory to such Highlands; even if such Highlands existed at all, or if they could be traced to the north-westernmost head of Connecticut River, whither they are required by the Treaty to go.

By the Treaty of Utrecht in 1713, Great Britain acquired by cession from France, "all Acadie according to its ancient limits." These limits extended to the 46th degree of north latitude. By the Peace of 1763, France ceded to England the whole of her possessions north of the 46th degree, to the River St. Lawrence. The title of England had then, therefore, become clearly established to the whole of that country, whilst no evidence appears of the right of Massachusetts to any part of it.

The Boundary of Massachusetts had never been settled previously to the Peace of 1783; and nothing passed upon that occasion which could give to Massachusetts any reason to suppose that her Boundary would then be enlarged beyond her Charter limits. The policy of England necessarily changed with the acknowledgment of the independence of her old Colonies, and her protection was now peculiarly due to others rather than to those who had voluntarily estranged themselves from her connexion.

Yet the people of the United States, asserting claims so directly injurious to British Colonial interests, have not scrupled, by their Legislative authorities, to use the most violent language upon this subject, calling into question the integrity of Great Britain, and representing the just assertion of her right to the territory in dispute, as an act which dishonoured her\*. Imputations to this

\* We have spoken in strong terms in our Report of the popular opinion which obtains in the United States as to the right of that country to the territory in dispute; but the positiveness of that opinion cannot surprise us when we consider the tone of many of the official documents which have emanated from some of their legislative bodies upon this subject, and the language held by the press in that country. To illustrate this we quote a few passages from official documents, little calculated to give a just and temperate direction to public opinion.

Extract from a Report from the Legislature of Maine, transmitted by the Governor of that State to the President of the United States, on the 30th April, 1837. The words in *Italics* are so in the original:—

Impossibility of executing the award of the King of the Netherlands, shown by the features of the country now ascertained.

Maps originating in a state of war, no evidence of property in the countries they represent.



effect, accompanying statements of the American claims, founded upon such objectionable grounds as we have exposed in this report, have been diligently circulated throughout the United States, and in all the Capitals of Europe.

"The first object, starting-place, or terminus a quo, is this *north-west angle of Nova Scotia*. It is the corner of the British province, *designated by themselves*. It was presumed, and it is still believed, that they knew the identical spot; we have a right to demand of them to define it."

We have before shown that this term, "north-western angle of Nova Scotia," is of American origin, having been first used in the Congress of 1779, and that this point mentioned in the Treaty of 1783 must remain for ever a nonentity until the Highlands of the Treaty are agreed upon. Yet Great Britain is here charged with having *designated* that angle, and is taunted with keeping back information as to its locality.

Extract from a Report to the Senate of the United States, dated July 4, 1838, by Mr. Buchanan, Chairman of the Committee of Foreign Relations:—

"Enough has already been shown to fix with precision what was the acknowledged southern boundary of the Province of Quebec at the date of the Treaty in 1783, and what it has remained ever since. It was then clearly known to have been a line from the western extremity of the Bay of Chaleurs to a point on the eastern bank of the Connecticut, in latitude forty-five, and running along the Highlands, dividing the tributaries of the St. Lawrence from the sources of streams flowing into the sea. Where, then, was the north-west angle of Nova Scotia known to be at the date of the Treaty?"

"Were not, then, the Commissioners who framed the Treaty fully justified in the conviction, that when they established the point of beginning of the boundaries between the United States and Great Britain, at 'the north-west angle of Nova Scotia,' they were fixing it at a point long known and well established?"—Page 6.

It is to be regretted that the Hon. Chairman,—the general reasoning of whose Report is in harmony with the conclusion he here comes to,—had not answered his own queries, and informed the Senate that the only attempts ever made to establish that point were made, first by the Congress in 1779, and next by the American Negotiators in 1782, under instructions from the Congress *to fix the north-west angle of Nova Scotia at the source of the River St. John*. Had he deemed it expedient to furnish the Senate with that authentic piece of information, we may reasonably infer that that distinguished body would have hesitated to pass with unanimity, as they did upon the occasion, a resolution, that—

"After a *careful examination* and deliberate consideration of the whole controversy, between the United States and Great Britain, relative to the North-Eastern Boundary of the former, \* \* it entertains a perfect conviction of the justice and validity of the title of the United States to the full extent of all the territory in dispute, between the two powers."—Page 15.

Extract from the Report of the Governor of Maine, transmitted to the President of the United States, April 30, 1837:—

"In perfect accordance with this disposition to encroach, is a proposition of the British minister, Mr. Vaughan, that inasmuch as the highlands cannot be found by a due north direction from the monument, we should *vary west* until we should intersect them, *but not EAST*! Now, that in case a monument cannot be found in the course prescribed, you should look for it *at the left*, *but not the right*, seems to us a very *sinister* proposition. \* \* \* We have never explored the country there, and are expected to yield to such arrogant, extravagant, and baseless pretensions!"—Page 359.

In this inculpatory statement, the fact—which was familiarly known in the United States—is carefully suppressed, that the proposition to vary the exploration for highlands, west of the due North Line, came not from Sir Charles R. Vaughan, but from Mr. Livingston, Secretary of State of the United States, by instructions from President Jackson; and that Sir Charles R. Vaughan, who was disposed to favour the proposition, wished, before he assented to it, to guard himself against any inference that exploration was in consequence to be made East of the due North Line,—a precaution, which Mr. Livingston, by direction of the President, admitted the validity of, by assenting to it.

Extract from the same document:—

"We call upon the President and Congress; we invoke that aid and sympathy of our sister States which Maine has always accorded to them; we ask, nay, we demand, in the name of justice, *HOW LONG* we are to be thus trampled down by a foreign people?"—Page 362.

Extract from a letter of the Governor of Maine to the President of the United States:—

"Whatever may be urged to the contrary, it is confidently asserted, not only that the provisions of the Treaty of 1783 is imperative, but that it describes our Boundary with a precision which shames the British claim, and, connected with the making of that claim, casts a shade over the lustre of the British character."

Extract from a letter of the Governor of Maine to the Secretary of State of the United States:—

"Let me entreat you, then, to look at once at the exciting cause of the cupidity of Great Britain, and the anxiety of Maine, as to this profligate claim."

Message of Governor Fairfield to both branches of the Legislature, January, 1840:—

"The pretence of claim set up by Great Britain to the disputed territory, is palpably unfounded and unjust, and can be persevered in only through an utter disregard of the plain and unambiguous terms of the Treaty of 1783."

These being but a few instances, from a greater number, which we might quote, account in a great degree for the sympathy which has been created in the United States, for the claims preferred by the State of Maine.

All the material arguments and facts which have occurred to us, being thus brought under the notice of your Lordship, we proceed to close our Report with a summary of the foregoing pages.

I. We have, in the first place, endeavoured to show that we should have been acting inconsistently with the information which we possess, and with the facts which we have to report, if we had adopted the ground which the official British agents who have preceded us in the investigation of this Boundary Question, relied upon as essential to the maintenance of the British view of the Question; viz., that the Boundary intended to be established by the 2nd Article of the Treaty of 1783, was to be a line distinct from the southern boundary of the Province of Quebec as established by the Royal Proclamation of 1763. In opposition to that erroneous impression, we have felt it our duty to show that those lines were one and the same thing. Indeed the very definition of the point in the Treaty, viz., the coincidence of the due North Line with the Highlands, proves that the Commissioners for negotiating the Treaty of 1783, considered the "Highlands" of the Treaty to be one and the same thing with the Southern Boundary of the Province of Quebec; for if Nova Scotia had extended further to the north, or to the west, than the point where the due North Line was to intersect the Highlands, that point would have been the north-east angle of the State of Maine, but could not have been the north-west angle of Nova Scotia. For the true north-west angle would have been still further to the north or to the west, at whatever point the western boundary of Nova Scotia touched the southern boundary of the Province of Quebec.

General Summary  
of the Results  
shown by the pre-  
ceding pages of  
this Report.

II. We have given some historical notices of the periods when the lands on the River St. Lawrence and on the Bay of Fundy were first discovered and settled by the French, with a view to show that it was long posterior to the settlements thus made by the French that any part of those countries came into the occupation of the English; that every such occupation was incidental to a state of war; and that invariably, on the restoration of peace, every part of those countries so occupied *was restored* to France, down to the Peace of Utrecht in 1713.

III. We have shown that, in 1603, the Sieur de Monts received letters patent from his Sovereign, granting him the country now called Maine and New Brunswick, to the 46th degree of north latitude; in which letters patent the word "*Acadie*" was first used as the name of the country; and that, at the Peace of Utrecht in 1713, France made her first cession to England of any of her possessions in that part of North America, ceding for ever to the British crown "*all Acadie according to its ancient limits.*"

IV. We have endeavoured to show by various 'concessions granted by the French Government to its subjects, north of, and adjoining to, the 46° parallel of north latitude, that the Government of Quebec, when possessed by France, had jurisdiction as far south as that parallel.

V. By our Map A, we show that a line drawn along that parallel connects the head waters of the Chaudière River, with a point not more than five miles north of that branch of the St. Croix River, where a monument has been erroneously placed, and with a point not more than forty-two miles north from the most western waters of the St. Croix.

VI. We have endeavoured to show that the claims of the colony of Massachusetts' Bay to extend its territory to the St. Lawrence, in virtue of the Grant of the Sagadahoc country by Charles II. to the Duke of York in 1664; in virtue of the renewal of that Charter in 1674; and in virtue of the Charter granted by William and Mary in 1691, are without weight: seeing that the Grant of 1664 was revoked at the Treaty of Breda in 1667; and that the title to the Sagadahoc country accruing by the renewal of the Grant in 1674, as well as the title to Nova Scotia,—both of which countries were annexed to the colony of Massachusetts' Bay in the Grant of 1691,—were revoked by the Treaty of Ryswick in 1697, *which restored to France all she had possessed before the declaration of war.*

VII. It is shown that the Charter of William and Mary of 1691 does not extend the Grant of the Sagadahoc country to the St. Lawrence, but only grants the lands "betweene the said country or territory of Nova Scotia and the said "River of Sagadahoc, or any part thereof," so that the extreme interpretation of this Grant would require for the northern limit, a line passing between the head



water of the St. Croix River and the source of the Sagadahoc or Kennebec River, which would nearly coincide with a line passing between the western waters of the St. Croix and the Highlands which divide the Kennebec from the Chaudière.

VIII. We show that the northern boundary of the colony of Massachusetts' Bay had never been settled; that the right of that colony to go to the St. Lawrence was denied by the British Government soon after the Peace of Utrecht in 1713, and has never since been admitted; that as late as 1764, a question was entertained by the Lords of the Board of Trade whether Massachusetts had any right whatever to lands in the Sagadahoc territory; and that at the Peace of 1783, that question had not been settled.

We also adduce the opinions of some distinguished Americans that Massachusetts had no claim to go to the St. Lawrence.

IX. It is shown that there is no evidence of any expectation having been entertained on the part of the revolted colonies, that they would be permitted, at the restoration of peace, to have their boundary extended north of the River St. John; that on the contrary, the Congress in 1782 instructed the negociators to have, if possible, the north-west angle of Nova Scotia established at the western source of the St. John's River, and to propose that river from its source to its mouth as the boundary between the two countries; and that upon the Government of Great Britain refusing to admit their proposition, they abandoned it, and agreed "*to adhere to the Charter of Massachusetts Bay, and to the St. Croix River mentioned in it.*"

X. It will appear that the phraseology used in those Instructions of Congress to their negociators, in which the north-west angle of Nova Scotia is stated to be at the source of the St. John, has been transferred to the 2d Article of the Treaty of 1783; the only difference being, that, in the latter, the River St. Croix is substituted for the River St. John, and that the highlands are directed to be reached from the St. Croix by a *due North Line*.

XI. We show that the "Highlands" of the Treaty had been, as early as 1755, described by Governor Pownall; and that he describes them as dividing the St. Francis and the Chaudière, from the Kennebec, and from *all the branches* of the Penobscot.

We also show that he states the different branches of the Penobscot to extend from west to east along the southern front of the country now called the disputed territory;

That the topographical description of the Southern Boundary of Quebec contained in the Royal Proclamation of 1763, and the description of the Boundary of Nova Scotia, contained in the commissions of some Royal Governors, were taken from Governor Pownall's paper;

And that the language used in the Boundary descriptions quoted from the Secret Journals of Congress, and the language used in the 2d Article of the Treaty of 1783, was but a copy of that which is to be found in the documents last mentioned.

XII. We have drawn the just inference, that the "Highlands" which Governor Pownall speaks of as throwing down both the western and eastern branches of the Penobscot, are the Highlands intended by the Treaty; and we have adduced the contract of Jackson and Flint with the State of Massachusetts in 1792, to show that the land then granted was bounded on the north by the Highlands, thus heading all the branches of the Penobscot; and that those "Highlands" were then understood by the Government of the State of Massachusetts to be the Highlands intended by the Treaty of 1783.

XIII. It is seen that the 2d Article of the Treaty of 1783, *can never be executed*, until the two Governments first agree which is the Line of Highlands that is to be intersected by the due North Line; since the Treaty directs the execution of the Article to begin at a point which can have no existence, until the due North Line has intersected Highlands acknowledged by both Governments to be those of the Treaty.

XIV. We have discovered by a critical examination of the Grant of Nova Scotia of 1621 in the original Latin, that the passage which describes the Western Boundary of the territory included in that Grant, and which boundary was agreed, at the time of the Treaty of 1783, to be the eastern boundary of Massachusetts in conformity with the provision contained in the Charter of Massachusetts of 1691, is susceptible of a new interpretation varying in important

particulars from the received one: and we show by a literal translation of the Latin, that the Boundary was intended to run from the most western waters of the St. Croix to the sources of the Chaudière; a line, which it has been seen, coincides in a very striking manner with the boundary in the Sieur De Monts' Grant of 1603.

XV. With reference to the great errors of Mitchell's map in latitude and longitude, we have suggested some remarkable considerations resulting therefrom. We have observed that if a line were protracted upon that map between the most western sources of the St. John and the western termination of the Bay of Chaleurs, and were adopted as the Boundary between the two countries, the River St. John would fall to the south of that line, and be within the United States. Whereas by a Line protracted between the above-mentioned points, *properly adjusted as to the latitude and longitude* as they exist on our map, the River St. John would be left on the British side, and to the north of the Boundary between the two countries. But though we have referred to Mitchell's map for the purpose of showing how the mistakes in that map may have contributed to account for the erroneous opinions prevailing in the United States about the Boundary Question, we are quite aware that Mitchell's map is not, and cannot be, any authority on this question: inasmuch as it is not mentioned or referred to, in any manner, in the Treaty. The Boundary must be determined by applying the words of the Treaty to the natural features of the country itself, and not by applying those words to any map.

XVI. It appears that in the discussions which have been hitherto had on the subject of the Grant of Nova Scotia in 1621, reference has always been had to an American translation of that Grant which was defective; and that all the omissions and inaccuracies in that defective translation singularly concur to obscure the nature of the claim which Her Majesty's Government is interested to maintain.

XVII. We have shown that the terms *due North Line* which were originally used in the Commission of Montague Wilmot, Esq., in 1763, were inserted in that instrument, because the sources of the St. Croix River being to the South of those of the Penobscot, it was necessary to direct a *due North Line* to be drawn from those sources as far as the Southern Boundary of the Colony of Quebec; a fact which goes far to identify that Boundary with the Highlands of the Treaty of 1783\*.

XVIII. In adverting to the proceedings of the Commissioners appointed under the Treaty of 1794, to identify the St. Croix River, we remark upon the erroneous establishment of the point of departure for the *due North Line*, which has had a disturbing influence upon all attempts subsequently made to execute the Treaty. Had the point of departure of the *due North Line* been established at the most western waters of the St. Croix, agreeably to a just construction of the Treaty of 1783, it would have intersected Highlands *south* of the Roostuc River; and any further protraction of the *due North Line* from that point of intersection could not have been proposed, the Treaty directing the *due North Line* to go to the Highlands, and not to any further point.

XIX. In that branch of our Report entitled "The Physical Geography of the Country," we have shown that the line of "Highlands" claimed by the United States to be the Highlands of the Treaty of 1783, even if it were continuous, which it is not, and if it divided the waters flowing in opposite directions, which it does not, passes at least fifty miles to the north of the "*North-Westernmost Head of Connecticut River*," and therefore could not by any reasoning be shown to be the "Highlands" of the Treaty of 1783; those Highlands being required by that Treaty to go to the north-westernmost head of Connecticut River.

\* The great principle of demarcation obtaining from the earliest periods in America, seems to have been the very convenient one that boundaries should pass, as far as it was practicable, clear of the sources of rivers flowing through the respective territories. This principle, no doubt, influenced the negotiations of the Treaty of 1783. When the Plenipotentiaries of the Congress proposed a line of demarcation which infringed this principle, viz., to make the River St. John the boundary between the two countries, and so admit the United States to the navigation of that river, it was instantly rejected.

Coronelli's map, dated A.D. 1689, which was published when France and England were at peace, shows that the principle obtained at that time, the northern boundary of the colony of New England running in that map along the sources of the Kennebec and Penobscot, and coming down from the sources of the Chaudière to the head waters of the St. Croix, in the manner we have supposed the Grant of Nova Scotia, in 1621, intended the Boundary to be.



XX. We have shown that the assumptions on the part of some of the official agents of the United States, both in relation to the continuity and to the dividing character of their "Highlands," and to the elevation above the sea of the point they have stated to be the north-west angle of Nova Scotia of the Treaty of 1783, are altogether unfounded in fact. That the conclusions upon which they have rested the American case, instead of being the legitimate results of practical investigation, are unsubstantial inventions brought forward in the absence of all real investigation; conveying erroneous ideas of the nature of the country; and calculated to mislead, not only their own authorities, but public opinion in the United States and in Europe, as to the merits of this question.

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#### Conclusion.

In concluding this Report, we have to ask the indulgence of your Lordship if it should appear to be less complete than the importance of the subject required, or would have admitted of. The very short period allotted for our personal examinations of the disputed territory, was diligently employed by us, as long as the season permitted us to continue our investigations; nor were they discontinued until we had made ourselves acquainted with the natural features of the country to the extent required by the important end contemplated in our instructions.

We are also aware that the somewhat complicated history of this controversy might, in more able hands, have been treated with greater ability, yet we venture to ask your Lordship to rely upon the fidelity of all our statements. If we may be thought to have occasionally exceeded the precise line of our instructions, we rest our justification on the great anxiety we have felt to vindicate our country and our Government from imputations as offensive as they are unfounded. Intimately allied as Great Britain and the United States are, we have thought it due to a question which has somewhat endangered the peace happily subsisting between them, that we should frankly explain some of the causes why the two Governments have hitherto been defeated in their earnest attempt to bring the dispute to an equitable and amicable arrangement. If our strictures upon the conduct of some of the agents of the two Governments heretofore employed in ineffectual attempts to settle the Boundary Question, should give pain in any quarter, we can only say that the maintenance of British rights and the preservation of peace did not appear to us to admit of being compromised by personal considerations. We have, therefore, stated things as we found them to be, and have been impartial in the application of our remarks. Above all, we desire to say that we have not intended to insinuate a doubt as to the good faith of the Government of the United States in the progress of this matter. On the contrary, we have regretted to see that those irregularities on the part of some of its agents which it has been our duty to expose, could not fail to mislead that intelligent Government whose conduct during the negotiations has been uniformly marked by fairness. Notwithstanding the assertions which during so long a period have been confidently urged, that the United States alone can rightfully claim the territory in question, we hope to have proved that the claim of Great Britain does not, as has been alleged, rest upon vague and indefensible grounds, but that she has always had a clear and indefeasible title, by right and by possession, to the whole of the disputed territory: a title, it is true, which has hitherto been somewhat obscured by its rather complicated history, and by the want of that interest which countries in the state of a wilderness, and remote from the mother country, sometimes fail to inspire.

If it should be urged that the British agents, in whose hands this question has heretofore been, have sometimes taken different views of the subject, and consequently expressed themselves in a manner inconsistent with the reasonings which we have used, we may fairly attribute it to the want of that more accurate information which we possess at this time. But it becomes less surprising that they should have so acted under the disadvantageous circumstances we have alluded to, when we see that the people of Maine, whose legitimate home is continuous with the country in dispute, have not to this day examined the territory, as they might have done, with an accuracy that admitted of an impartial judgment being formed, whether their claim, as they have hitherto preferred it, was or was not truly in accordance with the language and intentions of the Treaty of 1783. It is not to be concealed, that they, who were so much inte-

rested in the decision of the question, and who, as it were, live upon the spot, have contributed little or nothing to clear up the difficulties attending upon the subject. Their acts seem principally to have been confined to surveying the land into townships to be settled by their own citizens, and leaving it to the next generations to assert the proprietorship of them. Time will prove or disprove our statements. We have had truth at all times for our guide, and now confidently declare, that if, upon concluding our investigations, we had found reason to believe that the claim of Great Britain was, in our judgment, a doubtful one, we should have reported that fact to your Lordship.

When this question shall receive a more calm and a more careful examination in the United States, we believe that the American people, who are eminently capable of forming a deliberate and sound judgment upon this grave question, will be anxious that it shall be decided according to the principles of strict justice, and consistently with the reverence due to that Treaty whence is dated the independence of their Government.

Finally, it gives us great satisfaction to be able to state to your Lordship, that we have carefully examined every branch of this important subject as it has come under our consideration; and that conscientiously believing that the claims of Great Britain to the whole of the disputed territory are founded in justice, and are in plain accordance with the 2nd Article of the Treaty of 1783, and with the physical geography of the country;

We report

That we have found a Line of Highlands, agreeing with the language of the 2nd Article of the Treaty of 1783, extending from the north-westernmost Head of the Connecticut River to the sources of the Chaudière, and passing from thence, in a north-easterly direction, *South of the Roostuc*, to the Bay of Chaleurs. The course of that Line is traced out on the map A, accompanying our Report. Upon the left margin of this map we have placed a section of the country along the Line as far as the Lake Keeaquawgam; and upon the right margin a perpendicular section along the exploratory due North line, accompanying them both with barometrical elevations.

We further report that there does not exist, in the disputed territory, any other Line of Highlands which is in accordance with the 2nd Article of the Treaty of 1783; and that the Line which is claimed on the part of the United States, as the Line of Highlands of the Treaty of 1783, does not pass nearer than from forty to fifty miles of the north-westernmost Head of Connecticut River, and therefore has no pretension to be put forward as the Line intended by the Treaty of 1783.

We have the honour to remain,

My Lord,

Your Lordship's most obedient and humble Servants,

G. W. FEATHERSTONHAUGH.

RICH. Z. MUDGE.

} Commissioners.



## APPENDIX

To the Report of the British Commissioners appointed in July, 1839,  
to explore and survey the Territory in dispute between the  
Governments of Great Britain and the United States of America,  
under the 2nd Article of the Treaty of Ghent.

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### RECORD OF BAROMETRIC OBSERVATIONS,

*Made on the line of the Maximum Axis of Elevation, from the head waters of the  
Penobscot and St. John's Rivers to the Bay of Chaleurs, for determining the  
Approximate Heights of Land.*

A LARGE portion of the disputed territory may be seen from the summit of Mars Hill, which is nearly 1,700 feet above the level of the sea. On the top of that hill a space has been cleared by cutting down the trees, and a framed stage has been erected, about twenty feet in height, for the purpose of obtaining a view of the distant country. This was done only a few years ago, to assist in the exploration undertaken by Captain Yule, of the Royal Engineers, as authorized by the House of Legislature of New Brunswick, for determining the best line for a rail-road from St. Andrews to Quebec.

The character of the country may be well discerned and understood from this insulated hill. It presents to the eye one mass of dark and gloomy forest to the utmost limits of sight, covering by its umbrageous mantle the principal rivers, minor streams, and scanty evidences of the habitation of man. The hill itself is also rarely distinguishable from any part of the surrounding territory; and it is only by the increased difficulty of the ascent that the traveller becomes aware of his approach to the summit.

In a country so unfavourable for the usual methods employed in determining geometric heights, barometers offered the only means towards obtaining that object, and fulfilling the conditions on that point, conveyed in the Instructions to the Commissioners by Lord Viscount Palmerston. A selection was accordingly made of such barometers as were supposed to be constructed on the most approved principles, and immediately available.

The barometers used for the above purpose were ten in number; viz.:—

*Two*, marked A and B, on Troughton's improved construction, provided with a gauge point, the brass box covering the cistern of mercury having two slits opposite to each other, the plane of the upper edges of which represent the zero or beginning of the scale: a screw at the bottom performs the office of adjusting the surface of the mercury to zero, by just shutting out the line of light below the zero point, as also of rendering the instrument portable for carriage, by forcing up the mercury to the top of the tube before it is reversed and placed in the case, which is conveniently formed by the tripod-stand, used in suspending the barometer for observation.

*Four*, numbered respectively 1, 2, 3, 4, on the construction of Mr. Howlett, Chief Draftsman in the Office of the Inspector General of Fortifications, Pall Mall. These barometers are not provided with a gauge-point, but have, marked on each, numbers indicative of the neutral point and capacity; the size of the bores of the tubes not rendering any correction for capillarity necessary.

*Four*, numbered 373, 374, 376, 377, made by M. Buntin of the Quai Pelletier, Paris. These barometers were procured from Paris by order of Lord Palmerston, having previously been compared, by the permission and aid of MM. Arago and Mathieu of the Royal Observatory at Paris, with the standard syphon in that establishment.

The construction is that of a syphon, having one leg perforated with a very delicate and minute point for the admission of air. The zero point is placed in the centre of the instrument, and at the upper and lower ends are two moveable verniers, which, when

adjusted as tangents to the upper and under surfaces of the mercury, measure the distance from the centre or zero, the sum of which is the height of the mercurial column in millimetres, tenths, and hundredths. The vernier is divided only to tenths of millimetres, but by the aid of a powerful microscope, which should always be used, the hundredth part may be correctly estimated.

The possession of these barometers proved of the greatest value towards the objects of the expedition. The advantages they possess of extreme lightness, perfection of division, and the great facility with which they are brought in a moment into the requisite position and adjustment for observation, give them a decided superiority over every other instrument of the same description, in a country abounding with such difficulties and obstacles for the transport of ordinary barometers as the disputed territory.

Three non-commissioned officers of the corps of Royal Sappers and Miners were carefully selected by Brigade Major Matson, by order of the Master General of the Ordnance, to accompany the expedition to America. The instruments were placed on board the "British Queen" steamer, at Blackwall, and arrived safely at New York. From thence they were conveyed by steam-vessels and rail-road to Boston, where they were again examined, and found to be in perfect order. From Boston to Bangor in Maine the conveyance was also by steam, and nothing occurred until the arrival of the expedition at that place, to alter their condition.

From Bangor to the frontier town of Houlton, the ordinary communication during the summer season was at that period by stage, over a road cleared through the woods, of the very worst description, partly in consequence of its not having been repaired for some considerable time before, but chiefly from its having been cut up by the transport of cannon and heavy wagons with ammunition and other stores for the military dépôt and park of artillery at the Fort of Houlton during the same summer. Every expedient that could be devised for the protection of the instruments was adopted, the Paris barometers were held carefully and separately in the hand during the whole day and following night; and the remainder, which were much heavier, and which would, undoubtedly, have been broken or rendered unserviceable in any other position, were securely lashed outside the carriage at an angle of about  $45^{\circ}$ . Happily the stage was not actually overturned, though more than once on the point of being so; but the concussions were so severe, in crossing the cor-de-roy bridges (logs of timber laid across rivers and streams), added to the violent jolting occasioned by the wheels sinking into "honey pots" (holes in the road filled with mud and water) which could not be seen or avoided in a dark night, that the utmost apprehensions could not but be entertained for the safety of the barometers, and the condition in which they might be found on arriving at Frederickton.

The conveyance of the party and instruments from Houlton to Woodstock and Frederickton was also effected by stage; but the road was so far superior to that through Maine, that no fear could be felt of any other derangement of the barometers, than such as they might already have sustained.

On arriving at Frederickton, the Commissioners and their instruments were hospitably received by his Excellency, Sir John Harvey, into the Government-house, and a room was especially appropriated to the barometers at the top of the house, where they were carefully unpacked and examined on the following day.

*Extract from the Register of the Barometers.*

"On examining the barometers at the Government-house, to ascertain what injury they had sustained, in consequence of the violent jolting by carriage over the wretched roads in the State of Maine, the following results were noticed:—

Barometer A.	A slight escape of mercury outside the cistern.
" B.	No appearance of escape of mercury.
No. 1.	In good order.
" 2.	Ditto.
" 3.	Contained air.
" 4.	In good order.
" 373.	Contained air.
" 374.	Ditto.
" 376.	In good order.
" 377.	Ditto.

From the peculiar construction of Mr. Howlett's barometers, in case of admission of air into the tube, it is frequently practicable, by reversing the instrument several times successively, to disengage a large portion of it from the column of mercury; and in this instance, by pursuing that mode, the larger proportion of the air was expelled, and the reading was restored to within two-hundredths of an inch of the other barometers constructed on the same principle.

This difference from the construction of the usual mountain barometers consists in the absence of the usual elastic leathern bottom to the cistern, which, in common barometers, is forced up by a screw beneath to the height that may be necessary to bring the surface of the mercury in the cistern to the gauge point, or to force it to the top of the tube nearly, previously to the instrument being reversed for carriage.

In lieu of the leathern bottom a brass cap is placed within the body of the cistern, which, on the barometer being reversed, and so filling the tube with mercury, is screwed



tight against the bottom of the tube by means of a screw connected with it, and passing through the bottom of the cistern. The peculiarity attending this construction permits the expulsion of a large portion of intruding air, as was exemplified frequently during the course of the barometric observations through the disputed territory.

It is extremely difficult to account for the admission of air which was apparent in the French barometers, Nos. 373, 374, on examination at Frederickton, except that no instrument, however perfect in its construction, could, except by good fortune, escape injury to a certain extent, from the repeated and violent concussions and jolting through the State of Maine. The air was, indeed, partially, and apparently totally expelled by frequently reversing, as with Mr. Howlett's barometers when in a similar condition, and the instruments returned nearly to their readings with the others.

In the frequent use of the Paris barometers, in the course of the exploration, it was found, by experience, that they require a peculiar management. The tubes being manufactured of glass of extreme thinness to avoid capillary action, in moving the instrument for observation, or for the purpose of putting it into the leathern case, caution is required not to do so too suddenly, the weight of the mercury when quickly forced against the end of the tube having a tendency to break it; and the perforation in the open leg being so minute, that the air which enters to fill the space occupied by the mercury when in a position for observation, has not time to escape, if the mercury be suddenly forced back again by an impulsive movement resulting from want of caution in inverting the barometer to a position for observation.

During the stay of the Commissioners at the Government-house at Frederickton, the barometers were frequently compared, the temperatures of the attached and detached thermometers carefully taken, and the value of each, with reference to the others, accurately ascertained and registered.

The attached thermometers of A and B were both divided to the Centigrade and Fahrenheit's scales;

No. 1, 2, 3, and 4, to Fahrenheit's only;  
and No. 373, 374, 376, and 377 to Centigrade.

The detached thermometers were

*Four*, ingeniously connected by a folding arm, to barometers No. 1, 2, 3, 4, divided to Fahrenheit's scale.

*Two* of Fahrenheit's scale; and

*Two* Centigrade ditto, of a very delicate and sensible kind, made by M. Bunten, and purchased in Paris at the same time with the barometers.

Every arrangement having been made, and every assistance given by his Excellency Sir John Harvey, Chief Justice Chipman, Mr. Odell the Surveyor-General, and the other authorities at Frederickton, to secure a successful passage through the disputed territory, the Commissioners securely placed the barometers on board a horse boat, and proceeded up the river St. John to the Great Falls, where Sir John Caldwell had hospitably provided for their accommodation, and had preceded them for that purpose some days.

On arriving at that part of the river the nearest to Mars Hill, they disembarked with the barometers, and proceeded to ascend to the summit; having previously placed the instruments in a position for observation, and registered the readings in a barn on a height above the river, known as Pomphret's Barn, and notable for its connexion with the survey undertaken by order of the House of Assembly of New Brunswick, towards the construction of a railroad from St. Andrews to Quebec.

The barometers were then conveyed to the summit of Mars Hill, and placed against the stage erected on it by the same parties, for the purpose of seeing over the tops of the trees and investigating the nature of the country within view. The summit of the hill had also been partially cleared, to effect the same object more completely; and there being no shelter, and the wind blowing fresh at the time, the vibration of the mercury was so great that it became necessary to remove the instruments to a position about five feet below the summit; where, by means of lighting fires to keep off the numerous flies, the operation was at length completed.

On returning to Pomphret's Barn, the barometers and thermometers were again observed and registered.

The party then embarked, and proceeded to the Great Falls; the Commissioners being kindly received and entertained under the hospitable roof of Sir John Caldwell; and the instruments being placed in a small wooden building which he obligingly appropriated for the purpose, where they were soon after carefully registered and compared, and left for further observation: their condition being found similar to that of the preceding comparisons at Frederickton.

In order to obtain correct barometric heights above the sea, it is obviously necessary that simultaneous observations should be made at the stations the heights of which are desired to be known, and at that forming the standard level, the height of which is known or presumed, either by previous barometrical measurement, or determined by the spirit level, or by actual measurement to the surface of the ocean.

By examining the geographical character of the disputed territory on the map, it will readily be seen that the Great Falls on the river St. John form a position well suited to the last mentioned object; viz., that of constituting the standard point to which the barometrical altitudes throughout the country to the east and west might be referred. That part of the condition requiring the height of the said standard point above the sea to be known, had fortunately been previously fulfilled by order of the House of Legis-

lature of New Brunswick. Pursuant to their orders, a series of levels had been made from high tide at Chapel Bar, a few miles below Frederickton, to the summit of the Great Falls. The details are published in their Journal, of which the following is an extract.

“Levels on the River St. John from Frederickton to the Great Falls.

	Distance.	Height. Inches.
“From Frederickton to the confluence of tide below Chapel Bar	4:47:57	
“Confluence of tide to French Chapel	3:15	43
“French Chapel to Cliffs Bar	7:52	129
“Cliffs Bar to the head of Bear Island	5:70:40	227
“Bear Island to Nacawakac	8:54	
“Nacawakac to Meductic	4:68:50	55
“Meductic to Eel River	9:25	220
“Eel to Griffith’s Island	9:43	168
“Griffith’s Island to Macmullans	12:26	144
“Macmullans to Presquisle	8:8	
“Presquisle to Rivière du Châte	14:77	375
“Rivière du Châte to Tobique	12:71	765
“Tobique to Great Falls	21:12	
“Total	Miles 125:39:47	2127.”

The total rise is 2127 inches, or 177 feet 3 inches, on the distance of 125 miles, 39 chains, and 47 links, to the basin on the River St. John at the foot of the Great Falls.

Height of the basin at the foot of the Great Falls above the tide at	Feet.	Inches.
Chapel Bar	177	3
Perpendicular height of the Great Falls	74	0
Descent through Rocky Channel	45	6
Total	296	9

The total height of the bed of the River St. John above the tide at Chapel Bar being 296 feet 9 inches.

The levels here detailed, and conducted by a surveyor of approved skill and character, are not, however, the only evidences of the accuracy of the above measurement. It will be hereafter shown that the height of the same station is deduced by barometric measurement from the Bay of Chaleurs; and the result is such that no doubt whatever can exist of the fidelity of the above statement.

Three barometers were conveyed across that part of New Brunswick from the Great Falls to the Bay of Chaleurs, and observations made at two points in that Bay, viz., near the mouth of the Jacquet River, and at Bathurst, a town on the south side of the Bay; the mean results of which give a height of *four hundred and sixty-seven feet from the high water mark in the Bay, to the Observatory at the Great Falls of St. John.* The height, by a mean of five barometric observations, from the basin below the Great Falls to the Observatory above the Great Falls, was found to be 205 feet; and including 177 feet 3 inches, as determined by levels from the high tide mark at Chapel Bar, with the addition of 8 feet for the height of the barometer above the ground on which the Observatory was placed, gives a total height of *three hundred and ninety feet for the height of the Observatory above the tide at Chapel Bar on the River St. John,* the mouth of which is in the Bay of Fundy.

The same height as before stated, measured barometrically from the Bay of Chaleurs, was found to be 467 feet, making a difference of 77 feet between the two measurements; the result being, supposing the respective measurements to be correct, that the high water mark in the Bay de Chaleurs, is to that amount below the level of high-water mark in the Bay of Fundy.

In the American Ephemeris for the present year, published at Boston, is given a table showing the rise of the spring tides at several ports and places on the coast of America, including the Bay of Fundy; and it is therein stated that the latter have been ascertained by recent observations. According to the computations resulting therefrom, it would appear that at Cumberland Fort Basin, at the head of the Bay of Fundy, the greatest rise for the preceding year at that place was *eighty-one feet* sixty-five hundredths.

Chapel Bar, from its position, being fifty miles up and distant from the mouth of the River St. John, may be assumed to be the equivalent of Cumberland Fort, for the purposes of the same computation; as being subject to the same laws which have the tendency and effect to force the tide waters to a higher level at a distant point in any estuary, than to any other point nearer to its mouth.

In the same Ephemeris is also given the height of the water at spring tide, at Prince Edward’s Island, in the Gulf of St. Lawrence, not far distant from the Bay de Chaleurs; which, by the same computation, would show a total rise of six feet and nine-tenths on the shore of Prince Edward’s Island.

The rise of the tide north of this point, has not been ascertained by the authors of the American Ephemeris; and for want of other data, as also with reference to the peculiar



formation of the Gulf of St. Lawrence, Bathurst, in the Bay of Chaleurs, is assumed as the equivalent of Prince Edward's Island.

The difference between the two inferences above stated, viz., the greatest height of tide at Chapel Bar, in the Bay of Fundy, 81.65 feet, and at Bathurst, in the Bay of Chaleurs, 6.9 feet, is 74.75 feet; and the same, calculated by barometrical measurement, amounts to 77 feet, showing a total difference of little more than 2 feet between the two results.

This accordance is far beyond what could be looked for under the most favourable circumstances, and with every condition present to render barometrical observations most worthy of confidence. Barometers have, perhaps, been more extensively used on the Ordnance Surveys of England and Ireland, and their results have been compared with those deduced from trigonometrical measurement, on a greater scale and with more perfect materials than in any other part of the world: the experience of which has proved that heights computed from barometrical observations, cannot be inferred *with certainty*, within ten feet of the truth.

In exploring the disputed territory, barometers were adopted, as has been before observed, as the only means which the condition of the country admitted for obtaining the approximate heights of land; and had the difficulty of transport been less, and had it been practicable to use larger instruments in taking depressions and elevations, the results would have still been liable to doubt, inasmuch as the trees on the summits of all the hills, with the exception of one or two, vary from 60 to 120 feet or more in height; rendering observations uncertain, at least, to that amount of difference. It is not attempted, therefore, to insist that by any practicable process, a result such as has been shown above, could be obtained, so as to entitle it to perfect confidence; but it is such that a justifiable ground of conviction must remain, that the height of the Observatory at the Great Falls has been determined within comparatively very narrow limits.

The Great Falls having been, accordingly, fixed upon as a standard in reference to the travelling barometers, barometer No. 1 was selected for the purpose, and placed in the upper floor of the building in which it had been previously deposited, and compared with the others, at the height of thirteen feet above the level of the ground.

This was the only place available for the purpose, combining, at the same time, safety and shelter. The sides of the building were of wood, but not lined; and the shingles of the roof were so far open at intervals, that the air had free admission. Corporal MacGregor, of the Royal Sappers and Miners, who had been long employed on the survey of Ireland, and was accustomed to take angles with theodolites, was selected to keep a register of the instrument. His orders were given to him in writing, accompanied with a proper form, to be pursued in the register, of the height of the barometer, of the attached and detached thermometers, and the state of the weather and wind, to be recorded three times daily, viz.—at eight o'clock, A. M., at noon, and at four, P. M.

This register was maintained from the 13th of September to the 24th of October inclusive; between which periods observations were made as nearly simultaneous as possible, from the head waters of the Penobscot to the Bay of Chaleurs, during the progress of the exploration.

The line of proceeding having been determined, barometers B, No. 4, and No. 337, were placed in the charge of Mr. Wightman, an intelligent and competent surveyor of Frederickton, who had been recommended by his Excellency Sir John Harvey. His previous knowledge and long practice with instruments, shortly enabled him to understand the readings and different adjustments of each. He was also supplied with two of Bunten's delicate thermometers for registering the independent temperature of the air. One divided to Fahrenheit, the other to the Centigrade scale. And he performed the duties required of him, as far as the difficulties of the undertaking would permit, through a country which was before almost entirely unknown, with the utmost care and circumspection. The barometers confided to him were selected as being amongst the most perfect. He succeeded in reaching the Bay of Chaleurs with two of them in good order; viz.—Troughton's marked B, and Bunten's syphon 377. No. 4 suffered by accident, as might be expected out of the number; and both the detached thermometers were broken after arriving at the Bay of Chaleurs,—a subject of regret and inconvenience, of course,—but the main object having been already accomplished, of comparatively little importance. In making the usual correction for the strata of air, where the record is found deficient in registering the state of the temperature by the detached thermometer, that of the attached thermometer has been used, an approximation sufficiently near to prevent any great source of error, or to affect the computations, except in a trifling degree; as the barometers, when set up for observation, were always allowed to stand for at least a quarter of an hour, so as to render the temperature of the mercury and surrounding air as nearly equal as possible.

Mr. Wightman was also provided with written instructions, to record the state of the barometers at least three times every day, at the same hours as those appointed for register at the Great Falls, and at all other times when any great difference of level was perceptible.

The remaining barometers by Troughton, marked A

No.	2
No.	3
No.	373
No.	376

were retained by the Commissioners, and conveyed to the westward of the Great Falls to the head waters of the Penobscot and St. John's Rivers.

Of this number, all, excepting No. 374, were successfully carried to the extreme source of the River Roostuck, the Lake Wallagasquigum, called in some maps Allasquegamook; or windy lake, forming the head waters of the River Allegash, where the expedition halted for the first time to rest. Barometer 374 was broken by accident in a canoe on the 13th of September, but was less to be regretted, as being one of those found to be defective at Frederickton.

Advantage was taken of the stay of the expedition at the lake, to place the barometers in a secure position for observation, and to record them at the same hours appointed for the like purpose at the Great Falls.

On the arrival of the expedition at Quebec, an opportunity offered for a second comparison of heights, as computed from barometric measurement, and those derived, and obtained, by direct means, in the usual manner.

The citadel of Quebec on Cape Diamond, offered a convenient means for the purpose, and care was taken to profit by it.

Colonel Oldfield, the Commanding Engineer in Canada, afforded every facility, as also by granting access to the plans in his office, containing the requisite information.

The citadel is situated on the summit of the precipice overlooking the River St. Lawrence; and what is termed the "Old Cavalier," stands on the highest point of it, to which any direct measurement had been made. The height from the floor of the platform of the Cavalier to high-water mark in the St. Lawrence, was found to be 333 feet, 3 inches; and the operation was commenced, of comparing the computed barometric height with the same. Barometer 376 was chiefly used for the purpose, as having been kept uninjured and unimpaired throughout the expedition, and as never having sustained derangement of any kind; being indeed as perfect as when delivered from the Royal Observatory at Paris.

Barometers A and No. 2 were also recorded; but barometer A had experienced injury by some unknown means some time before; as was evident by the escape of the mercury perceptible outside the glass cistern, to which it adhered in small globules: and barometer No. 2, on being placed on the Cavalier, was found to contain air which resisted every means adopted for its expulsion.

The operation was commenced on the 26th of October, and repeated on the 30th following.

First, by observing the barometers on the platform of the Citadel, after allowing them to remain a sufficient time to bring the mercury nearly to the external temperature; frequently reversing the instrument, and reading and recording at each reversal. The barometers were then carefully carried through the town of Quebec to the Queen's Wharf, and placed at a little distance from the walls of a building sheltered from the sun, nine feet from high-water mark, which was registered on a post in front of the wharf, where the operation of reading and reversing, and again reading, was frequently repeated. They were then restored as quickly as possible to their original position on the platform of the Citadel, and registered as before with the like precautions; when the difference between the last and the original readings was found to be about  $\frac{4}{10}$  of a millimetre, and the mean of the two results was adopted for the height of the mercurial column at the platform. The barometers being suspended 3 feet above it.

The computed height by this first operation amounts to  $331\frac{2}{10}$ .

On the 26th of October the barometers were first observed on the Queen's wharf; next on the citadel, and again at the Queen's wharf. The difference between the sum of the readings at the first and second operation on the Queen's wharf being  $\cdot 025$  of a millimetre.

The computed height by the second operation amounts to  $332\frac{4\frac{5}{10}}{10}$ , being so near an approximation to the actual height, as measured by the Royal Engineer's Department, viz., 333 feet, 3 inches, that little need be said in favour of barometers when properly constructed and kept in good order, and when sufficient time can be commanded for careful observation.

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Subjoined are the registers of the barometers, made during the course of the expedition, commencing with the Great Falls.



## GREAT FALLS.

Date.	Bar. No. 1.	Ther. A.	Ther. D.	Weather.
September 13, 8 A.M.	29.510	45	42	Fine weather; wind north-west.
12	29.604	42	42	
4 P.M.	29.606	49	47	
14, 8	29.508	43	40	Fine weather; wind north-west.
12	29.601	46	44	
4	29.606	60	57	
15, 8	29.850	47	45	Fine weather; wind south-west.
12	29.808	59	58	
4	29.802	66	65	
16, 8	29.620	56	55	Rain, ended 9 A.M., dull weather for the rest of the day; wind south-west.
12	29.665	62	62	
4	29.663	63	61	
17, 8	29.710	57	56	Rain since 9 A.M.; wind west.
12	29.677	60	59	
4	29.675	62	60	
18, 8	29.635	57	57	Dull weather till 3 P.M., rain afterwards; wind south-east.
12	29.558	60	60	
4	29.430	65	65	
19, 8	29.230	60	59	Rain till noon, fine afterwards; wind north-west.
12	29.254	62	60	
4	29.302	62	61	
20, 8	29.505	49	49	Fine weather; wind south.
12	29.505	61	63	
4	29.454	66	66	
21, 8	29.605	47	47	Fine weather; wind west.
12	29.655	47	48	
4	29.655	46	55	
22, 8	29.505	43	43	Dull weather and frequent showers of rain during the day; wind west.
12	29.370	46	45	
4	29.210	50	50	
23, 8	29.045	59	58	Dull weather till 11 A.M., fine afterwards; wind north-west.
12	29.125	60	60	
4	29.145	64	63	
24, 8	29.285	45	45	Fine weather; wind west.
12	29.258	53	53	
4	29.258	58	57	
25, 8	29.354	41	41	Fine weather; wind north-west.
12	29.330	50	49	
4	29.315	60	59	
26, 8	29.170	45	45	Rain all day; wind north.
12	29.035	47	47	
4*	28.910	49	50	
27, 8	29.330	39	40	Fine weather; wind south-west.
12	29.330	52	54	
4	29.265	57	56	
28, 8	29.435	37	39	Fine weather; wind north-west.
12	29.497	45	47	
4	29.525	48	47	
29, 8	29.668	35	37	Fine weather; wind north-west.
12	29.675	46	47	
4	29.710	49	49	
30, 8	29.847	35	35	Fine weather; wind south.
12	29.847	44	47	
4	29.825	58	58	

\* Minimum.

## GREAT FALLS—(Continued.)

Date.		Bar. No. 1.	Ther. A.	Ther. D.	Weather.
October	1, 8 A.M.	29·825	35	37	Fine weather; wind north-west.
	12	29·825	47	48	
	4 P.M.	29·767	48	50	
2,	8	29·659	41	43	Cloudy weather; wind south-west.
	12	29·563	51	52	
	4	29·465	52	52	
3,	8	29·205	48	49	Rain till noon; fine afterwards.
	12	29·164	52	52	
	4	29·126	54	54	
4,	8	29·184	44	44	Showery all day and wind blowing fresh from the north-west; shower of snow at 5 P.M.
	12	29·287	43	42	
	4	29·420	43	45	
5,	8	29·888	39	34	Fine weather; wind north-west.
	12	29·935	39	41	
	4	30·035	50	50	
6,	8	30·178	32	32	Fine weather; wind south.
	12	30·178	42	46	
	4*	30·185	59	60	
7,	8	29·944	32	31	Dull weather and showery afternoon; wind south.
	12	29·869	43	45	
	4	29·810	46	37	
8,	8	29·810	47	48	Cloudy till noon, fine afterwards; wind north.
	12	29·842	57	57	
	4	29·810	60	61	
9,	8	29·810	52	52	Fine weather; wind north-west.
	12	29·737	57	57	
	4	29·696	65	64	
10,	8†	29·430	50	50	Rain till noon, fine afterwards; wind north-east.
	12	29·468	53	53	
	4	29·486	57	56	
11,	8	29·730	35	36	Fine weather; wind north-west.
	12	29·704	42	44	
	4	29·662	53	54	
12,	8	29·753	32	33	Fine weather; wind south.
	12	29·778	45	48	
	4	29·725	58	57	
13,	8	29·468	45	47	Dull weather; wind south.
	12	29·417	49	49	
	4	29·410	56	57	
14,	8	29·690	44	44	Fine weather; wind south.
	12	29·726	45	45	
	4	29·710	50	50	
15,	8	29·710	43	44	Fine weather; wind west.
	12	29·684	50	52	
	4	29·705	61	62	
16,	8	29·810	40	40	Fine weather; wind south.
	12	29·844	50	52	
	4	29·825	65	66	
17,	8	29·686	45	45	Fine weather till noon, showery afterwards; wind south.
	12	29·675	52	53	
	4	29·610	53	53	
18,	8	29·710	46	46	Dull weather and showery afternoon; wind south.
	12	29·578	51	52	
	4	29·524	53	53	

\* Maximum.

† Remarkable fall and sudden rise in the barometer.



## GREAT FALLS—(Continued.)

Date.	Bar. No. 1.	Ther. A.	Ther. D.	Weather.
19, 8 A.M.	29·524	48	48	Dull and hazy weather; wind north-east; fall of snow during the night.
12	29·543	45	45	
4 P.M.	29·543	39	40	
20, 8	29·834	29	29	Cloudy weather; wind north-west.
12	29·886	31	31	
4	29·944	33	34	
21, 8	30·134	29	30	Cloudy weather till noon; fine afterwards.
12	30·182	32	33	
4	30·124	43	44	
22, 8	29·973	25	26	Dull weather; wind south.
12	29·882	37	35	
4	29·810	37	38	
23, 8	29·910	34	35	Cloudy weather; wind south.
12	29·844	37	39	
4	29·710	42	43	
24, 8	29·210	44	45	Rain till noon, cloudy afterwards; wind north-west.
12	29·186	47	49	
4	29·330	48	48	

In concluding the observations at the Great Falls Observatory, it is proper to remark, that they were discontinued sooner than was intended, owing to misapprehension of one of the surveyors, who returned in charge of the canoes and party by way of the Great Falls to Frederickton. Having left the Commissioners intending to explore their way to Quebec, after penetrating to the extreme limits of the disputed territory, he concluded the operations to be completed, and carried Corporal Macgregor with those in his charge back to Frederickton.

The period, however, of the register at the Great Falls, includes all the important observations made on the line of the great axis of elevation from the head waters of the Penobscot and St. John's Rivers to Bathurst, in the Bay of Chaleurs.

Operations for determining the approximate height of Mars Hill. August, 1839.

Four barometers were selected for this purpose, viz.,—

## Barometer B.

No. 1.

No. 377.

No. 376.

They were placed 3 feet above the floor in Pomphret's Barn, and having been allowed to remain a short time, until the mercury acquired nearly the temperature of the air, were carefully registered. The instruments were then conveyed to the summit of Mars Hill, and again observed, as also 5 feet below the summit, where they were obliged to be removed for shelter. Fires were lighted to obtain smoke to keep off the flies, but at such a distance as not to prejudice the observations.

The operations at the top of Mars Hill being completed, the barometers were again placed in the same position as before in Pomphret's Barn, and carefully read and registered. The detail is as follows.

Station.	Barometer.	Height.	Ther. A.	Ther. D.	Remarks.
At Pomphret's Barn near the River St. John, at the foot of Mars Hill, 10 A.M.	A.	29·391	18½ C.	18½	
	No. 1.	29·424	64 F.	65 F.	
	376	746·8	18 C.	18½ C.	
Summit of Mars Hill, 2 P.M.	No. 1.	28·087	66 F.	62 F.	
	373	711·3	18½ C.	16½ C.	
	376	711·9	18 C.	17 C.	
Five feet below summit, 2½ P.M.	No. 1.	28·098	66½ F.	62	
	373	712·5	17½ F.	16 C.	
	—	712·0	17 C.	16 C.	
	376	711·8	17 C.	16 C.	

OBSERVATIONS ON MARS HILL—(Continued.)

Station.	Barometer.	Height.	Ther. A.	Ther. D.	Remarks.
Five feet below the summit, 2nd Reading.	No. 1.	28·088	66½ F.	61½ F.	Fine weather, very warm; a brisk wind on the summit, which rendered it necessary to remove the barometers, at first placed against the wooden stage erected on the summit, into shelter five feet below.
	373	712·6	17 C.	16 C.	
	—	712·0	17 C.	16 C.	
	376	711·8	17 C.	16 C.	
Again at Pomphret's Barn 4 P.M.	No. 1.	29·553	69 F.	64 F.	
	373	749·7	18·5 C.	19 C.	
	376	750·0	18·5 C.	19 C.	

With reference to the important ulterior objects of the expedition, the visit to Mars Hill was performed with all the rapidity possible. The access to it is through woods and cedar swamps, the difficulties of which have occasioned more than one failure in the attempt. It became, therefore, expedient to convey only the lightest and most portable barometers to the summit; and Barometer A, being the heaviest, and most liable to injury, was left behind. An error occurred in the first register of Barometer No. 373, which was therefore excluded.

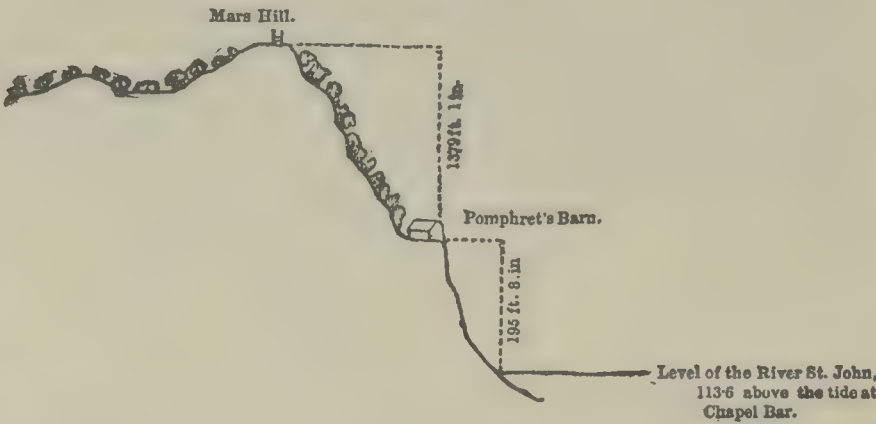
The result of the computations gives 1379 feet 1 inch from Pomphret's Barn to the summit of Mars Hill.

The height of Pomphret's Barn, above the River St. John, as ascertained by levelling by the Railroad Surveyors, was found to be 195 feet 8 inches.

And the height of the Rivière du Châte, above high water at Chapel Bar, 113 feet 6 inches.

The total height, therefore, of Mars Hill, above the tide at Chapel Bar, is 1688 feet 3 inches.

EXPLANATORY DIAGRAM.



Mr. Wightman was dispatched from the Great Falls, towards the Bay of Chaleurs, with a sufficient party, on the 8th of September, to explore the country, of which the Indians knew but little, and other information was almost entirely wanting.

He proceeded down the River St. John to the mouth of the Tobique. To the head of Nictau Lake, and thence to the Bay of Chaleurs, which he struck near the mouth of the Jaquet River. From that point he proceeded to Bathurst, a small fishing town in the Bay, and returned up the Middle River by the head of the Nictau Lake to the Great Falls, where, on the 14th of November, an opportunity offered of comparing the barometers he carried with him with the French Syphon Barometer 373, excepting No. 4, which had become unserviceable; when the accordance was remarkable and highly satisfactory, as follows:—

	Bar.	Height.	Th. A.	Th. D.
Nov. 14. Comparison of Barometers at the Great Falls, 14 feet below the observatory.	373	751·4	+ 1 C.	+ 2 C.
	377	751·3	+ 2	+ 2
	B.	29·576	35 F.	35 F.



*Record of the Barometric Observations from the Mouth of the Tobique to the Bay of Chaleurs, and returning to the Great Falls.*

Date.	Station.	Bar.	Height.	Th. A.	Th. D.	Weather, &c.
Sept. 10, 8 A.M.	At Poikok, on Tobique, 40 feet above the river.	B. No. 4 377	29.420 29.448 739.9	66 F. 68 F. 19	19 C. 66½ F. 19	Wind south-west, moderate; some broken clouds.
12	On Tobique, 3 miles below Red Rapids.	B. No. 4 377	29.420 29.435 747.	71 F. 72 F. 21¼ C.	21½ C. 68½ F. 21 C.	Wind west-south-west, moderate; clear sky.
4 P.M.	Mouth of Tront Brook, on Tobique, 15 feet above the river.	B. No. 4 377	29.380 29.375 745.6	69 F. 69 F. 22 C.	20¾ C. 70 F. 21	Wind west-south-west; clear sky.
No corresponding observations for determining the above heights.						
Sept. 11, 8 A.M.	Four miles above Red Rapids, on Tobique, 20 feet above river.	B. No. 4 377	29.449 29.519 749.4	61¼ F. 61 F. 17¾ C.	16½ C. 63 F. 16½ C.	Same as yesterday.
Height of the above station above the tide at Chapel Bar, 148 feet.						
12	Half a mile above Three Brooks, on the Tobique.	B. No. 4 377	29.453 29.513 748.7	62 F. 67 F. 17 C.	16¾ C. 61½ F. 16¾ C.	Weather the reverse.
Height of the above station above the sea at Chapel Bar, 166 feet.						
4 P.M.	At Plaster Rocks, on the Tobique.	B. No. 4 377	29.404 29.447 747.4	61¼ F. .. 16 C.	16¼ C. .. ..	Thunder shower at 7 o'clock, P.M.
Height of the above station above the sea at Chapel Bar, 180 feet.						
Sept. 12, 8 A.M.	Eight miles above the Wapashoot, on the Tobique.	B. No. 4 377	29.503 29.560 749.7	53¾ F. 57 F. 11¼ C.	12 C. 54 F. 11¼ C.	Wind supposed west-south-west, not certain; tolerably clear; cloudy at 9 o'clock.
No corresponding observations for determining the above height.						
12	At Banks Budeaux, three miles below Gulquat, on the Tobique.	B. No. 4 377	29.531 29.586 751.0	54 F. 55 F. ..	12 C. 52½ F. 12 C.	Cloudy, beginning to drop rain; cleared off at 3 P.M.
No corresponding observations for determining the above height.						
4 P.M.	At mouth of the Gulquat, on the Tobique.	B. No. 4 377	29.522 29.580 750.3	58 F. 59½ F. 14½ C.	14¾ C. 57¾ F. 13¾ C.	Weather cloudy.
No corresponding observations for determining the above height.						
Sept. 13, 8 A.M.	Two miles above Gulquat, on the Tobique.	B. No. 4 377	29.571 29.624 752.5	43 F. 43½ F. 7 C.	44½ F. 44½ F. 6½ C.	Cloudy; wind north-west.
12	Same station.	B. No. 4 377	29.511 29.560 751.6	48 F. 48 F. 9½ C.	48½ F. 49½ F. 9 C.	Cloudy.
4 P.M.	Same station.	B. No. 4 377	29.389 29.434 751.6	47½ F. 48½ F. 8¾ C.	47¾ 48½ 8½	Cloudy.
Height by mean of the three sets of observations, 331 feet.						
Sept. 14, 12	On Tobique, five miles above the last station.	B. No. 4 377	29.691 29.758 755.8	51 F. 50½ F. 12 C.	54 F. 52½ C. 12 C.	Clear weather; wind west.
Height, 282 feet.						
4 P.M.	At Blue Mountain Brook.	B. No. 4 377	29.690 29.743 755.0	58 F. 59½ F. 15 C.	59 F. 58 F. 14¾ C.	Ditto.

*Record of the Barometric Observations, &c.—(Continued.)*

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*Record of the Barometric Observations, &c.—(Continued).*

Date.	Station.	Bar.	Height.	Th. A.	Th. D.	Weather, &c.
Sept. 25, 8½ A.M.	Near the top of Bald Mountain.	No. 4 377	27·258 691·0	41 F. 3½ C.	38 F. 3½ C.	Fine and clear sunshine all day; wind, light breeze south-west.
	Height, 2,407 feet.					
9½ A.M.	Top of Bald Mountain.	No. 4 377	27·164 688·7	42½ F. 5½ C.	41 F. 5 C.	
	Height of Bald Mountain, 2,496 feet.					
¾ P.M.	Near the top of Bald Mountain, as before.	No. 4 377	27·270 691·4	50 F. 8 C.	45 F. 7 C.	
2½ P.M.	Head of Nictau Lake.	No. 4 377	28·923 733·65	50½ F. 11 C.	50 F. 10½ C.	
4 P.M.	Same station.	B. No. 4 377	28·878 28·930 733·9	46 F. 49 F. 8½ C.	46 F. 46 F. 8 C.	
	Height by first set . . . 746·2 Height by second ditto . . . 765·9					
	NOTE.—This second is to be preferred, the first observations not having been simultaneous with those at the Great Falls. The height will be further noticed.					
Sept. 26, 8 A.M.	Head of Nictau Lake.	B. No. 4 377	28·746 28·796 730·65	43 F. 43 F. 6¼ C.	44 F. 43 F. 6½ C.	Heavy rain began at 6 A.M.; brisk south-west wind.
	Height, 782 feet.					
12	Same station.	B. No. 4 377	28·602 28·654 726·9	47 F. 47½ F. 7¼ C.	46½ F. 45½ F. 7¾ C.	Continued rain.
	Height, 785 feet.					
4 P.M.	Same station.	B. No. 4 377	28·448 28·495 722·7	47½ F. 49½ F. 9½ C.	49½ F. 49½ F. 9½ C.	Continued rain; wind the same; ceased at 10 P.M.; wind came round to north-west, and a heavy gale.
	This result is rejected on account of the peculiar conditions of the atmosphere.					
Sept. 27, 8 A.M.	Same station.	B. No. 4 377	28·808 28·853 734·6	39 F. 48 F. 4¾ C.	41 F. 46½ F. 4½ C.	Fine clear weather; brisk north-west wind.
	Rejected also; the observations being discordant.					
12	On rising ground three miles north east from the head of Nictau Lake.	B. No. 4 377	27·958 28·008 710·3	46½ F. 48 F. 8½ C.	47 46½ 8½	
	Height, 1,670 feet.					
2 P.M.	On the line, — miles from Nictau Lake, upon the ridge between Tobique and Nipisiquit waters.	No. 4 377	27·718 703·	51 9	47	
	Height, 2,092 feet.					
4 P.M.	On the line, — miles from Nictau Lake, on a branch of the Nipisiquit.	B. No. 4 377	27·864 27·906 706·5	47 F. 49 F. 9 C.	48 F. 48 F. 9 C.	Wind south-west; fresh breeze; somewhat cloudy.
Sept. 28, 8 A.M.	Same station.	B. No. 4 377	27·962 28·003 710·5	32½ F. 34 F. + 0¼ C.	32 F. 32 F. 0 C.	Cloudy; no rain from 10 last night to 4 this morning; gale from south-west, with rain.
12	Same station.	B. No. 4 377	28·007 28·053 711·7	37 F. 38½ F. 3 C.	38 F. 37 F. 3 C.	
	Height from mean of three sets of observations, 1,718 feet.					



*Record of the Barometric Observations, &c.—(Continued.)*

Date.	Station.	Bar.	Height.	Th. A.	Th. D.	Weather, &c.
Sept. 28, 1½ P.M.	One mile north-east from last station, on a conical hill.	B. No. 4 377	27·696 27·758 703·9	36½ F. 36½ F. 2¾ C.	36 F. 36 F. 2 C.	
	Height, 2,043 feet.					
3	Two miles from last station, on a small brook running to the right.	No. 4 377	28·063 711·0	42 F. 6½ C.	39 F.	Clear weather.
	Height, 1,722 feet.					
4	One mile from last station.	B. No. 4 377	27·608 27·663 701·6	36 F. 41 F. 3 C.	36 F. 35 F. 2¾ C.	
	Height, 2,145 feet.					
Sept. 29, 8 A.M.	At a small brook running to the right.	B. No. 4 377	28·188 28·239 716·6	32 F. 32 F. 1 C.	30 F. 30 F. 1 C.	Fine clear weather; wind south-west.
	Height 1,729 feet. See above, 1,722 feet, and below, 1,716 feet.					
11½	Same station.	B. No. 4 377	28·208 28·254 717·2	38 F. 38 F. 3½ C.	38 F. 37½ F. 3¼ C.	Fine clear weather; wind south-west.
	Height, 1,716 feet. Mean height, 1,722 feet, by three sets of observations.					
1½ P.M.	One and a half mile from last night's station, on a very high peak.	B. No. 4 377	27·688 27·715 703·2	36 F. 40 F. 2½ C.	37 F. 35 F. 2¼ C.	
	Height, 2,213 feet.					
3½	Two miles from last night's station, at a small stream descending rapidly to the right, valley running east.	B. No. 4 377	28·392 28·433 721·7	41 F. 41½ F. 5¼ C.	41 F. 41 F. 5 C.	Cloudy throughout the day.
	Height, 1,580 feet.					
6	At a valley descending south, on the side of a range of hills forming the division between Nipisquit and Upsalquatch waters.	B. No. 4 377	28·468 28·500 722·5	41 F. 44 F. 5½ C.	41 F. 41 F. 5 C.	
	Height, 1,508 feet.					
Sept. 30, 8 A.M.	Same station.	B. 377	28·576 726·2	26 F. — 2½ C.	28 F. — 2 C.	Fine weather; wind west.
	Height, 1,498 feet; and above, 1,508 feet. Mean height, 1,503 feet, by two sets of observations.					
9¾	One mile and a half east-north-east from last station.	B. No. 4 377	28·176 28·225 716·5	33½ 36 + 1	32½ F.	Fine weather; wind south.
	Height, 1882 feet.					
12	Three miles from last station but one.	B. No. 4 377	28·040 28·088 713·	39 F. 39½ F. 4 C.	41 F. 41 F. 5¼ C.	
	Height, 2045 feet.					
4 P.M.	At — miles from first station of this day, on a small brook running north-west.	B. No. 4 377	28·952 28·972 735·7	39 F. 41 F. 4½ C.	38½ F. 38½ F. 3	
	Height, 1,134 feet.					

*Record of the Barometric Observations, &c.—(Continued.)*

Date.	Station.	Bar.	Height.	Th. A.	Th. D.	Weather, &c.
Sept. 30, 5½ P.M.	On a small stream running south-east from first station of this day.	B. No. 4 377	28·620 28·660 727·5	37½ F. 42 F. 4½ C.	38 F. 38 F. 3 C.	
	Height, 1453 feet.					
Oct. 1, 8 A.M.	At a small brook running south from station, on side of range of hills dividing Nipisquit and Upsalquatch waters.	B. 377	28·608 727·2	32 F. 0 C.	32 F. 0 C.	
	Height, 1469 feet.					
10	Two miles from last station, at a very small brook running to the right.	B. 377	28·940 735·6	37 F. 3½ C.		
	Height, 1154 feet.					
12	→ miles from last station, on the head of a lumber road.	B. 377	28·982 736·2	45½ F. 8 C.	35½ F. 7½ C.	
	Height, 1143 feet.					
2 P.M.	At a lumber camp, on a stream running north.	B. 377	29·694 754·5	50 F. 11 C.	50½ F. 10 C.	
	Height, 495 feet.					
3	One and a half mile from last station, on top of land, the river being in a deep hollow.	B.	29·280	50 F.		
	Height, 873 feet.					
3½	Half a mile north of last station, on a hill.	B. 377	28·886 732·1	48 F. 10 C.		
	Height, 1195 feet.					
5½	One and a half mile north from last station.	B. 377	29·266 743·5	43½ F. 7 C.	43 F. 6 C.	
Oct. 2, 8 A.M.	Same station.	B. No. 4 377	29·140 29·137 740·8	40½ F. 40 F. 6 C.	42 F. 40½ F. 5½ C.	Fine weather; wind north-west.
5	Same station.	B. No. 4 377	28·956 28·960 735·7	50 F. 53½ F. 10 C.	50 F. 50 F. 10 C.	
	Mean height, 844 feet, by three sets of observations.					
12	On west branch of Apsalquatch River, half a mile above Forks.	B. No. 4 377	29·726 29·704 755·0	55 F. 56 F. 14 C.	58 F. 57 F. 14½ C.	Looks like a storm.
	Height, 221 feet.					
Oct. 3, 4 P.M.	Three miles south-west, up a brook.	B. No. 4 377	28·792 28·740 731·7	50 F. 53 F. 10½ C.	48½ F. 49 F. 9½ C.	Rain; cleared off at noon.
Oct. 4, 8 A.M.	Same station.	B. No. 4 377	28·760 28·750 730·9	41 F. 43 F. 5½ C.	41 F. 41 F. 5 C.	
12	Same station.	B. No. 4 377	28·860 28·858 733·2	38 F. 39 F.	37½ F.	Still raining.





*Record of the Barometric Observations, &c.—(Continued.)*

Date.	Station.	Bar.	Height.	Th. A.	Th. D.	Weather, &c.
Oct. 8, 12	At a brook in a deep ravine running west.	B. 377	29·609 752·2	53 F. 12½ C.	53 F. 11½ C.	Fine clear weather; wind north.
	Height, 631 feet.					
4 P.M.	North side of Blue Mountain.	B. 377	29·076 739·0	57½ F. 14½ C.		
	Height, 1,064 feet.					
10	One mile north-west of camp on Jacquet River. Hill considerably higher on the left.	B. 377	29·106 739·7	55 F. 13½ C.		
	Height, 1,044 feet.					
Oct. 9, 8 A.M.	Two miles north-north-west of camp on Blue Mountains.	B. 377	29·242 742·9	45 F. 7 C.		
	Height, 820 feet.					
12	Two miles north-west of last station.	B. 377	29·312 744·7	48½ F. 9 C.		
4 P.M.	Same station.	B. 377	29·226 742·4	37½ F. 8½ C.		
	Mean height, 779 feet, by two sets of observations.					
Oct. 10, 8 A.M.	Three miles from yesterday's Camp, near Big-hole Brook.	B. 377	29·280 754·0	47 F. 8½ C.	47 F. 47 C.	
	Height, 1,318 feet.					
12	Postage road leading from Nash's Creek, two miles back from main shore road.	B. 377	29·696 754·4			
	Height, 172 feet.					
5½ P.M.	Bay des Chaleurs, four miles below Jacquet River, thirty feet above sea level.	B.	29·846	49		
Oct. 11, 8 A.M.	Former station on Bay des Chaleurs.	B.	30·140	38 F.		
	Observation doubtful, and rejected.					
Oct. 13, 12	Bathurst (Bay des Chaleurs) on a hill eighty feet above the sea level.	B. 377	28·849 758·0	56 F. 14½ C.	58 F. 58 C.	
4 P.M.	Same station.	B.	29·788	61	62	
Oct. 14, 8 A.M.	Same station.	B. 377	30·149 766·1	54 12½		Clear weather; light north-west wind.
	Height of Observatory at the Great Falls, above the Bay des Chaleurs, by mean of all the observations and barometers, 467 feet.					
Oct. 15, 5 P.M.	Eight miles up Middle River ascending from Bay des Chaleurs to the Great Falls.	B. 377	29·896 759·4	43 F. 6 C.		
	Height, 154 feet.					
Oct. 16, 8½ A.M.	Falls of Middle River.	B. 377	29·844 757·8	44 F. 8 C.		
	Height, 390 feet.					



*Record of the Barometric Observations, &c.—(Continued.)*

Date.	Station.	Bar.	Height.	Th. A.	Th. D.	Weather, &c.
Oct. 16, 11½ A.M.	At Burnt Camp.	B. 377	29·669 753·7	57 F. 14 C.		
	Height, 559 feet.					
2½ P.M.	Camp two miles north-west of Burnt Camp.	B. 377	29·470 749·0	60 F. 15½ C.		
	Height, 699 feet.					
4½	Ferguson's Lower Camp.	B. 377	29·350 745·5	56 F. 13 C.		Brisk west wind; and cloudy.
	Height, 801 feet.					
Oct. 17, 6½ A.M.	Same station.	377	743·1	9 C.		
	Height, 791 feet.					
9	Ferguson's Upper Camp.	B. 377	29·214 741·9	56 F. 13 C.	55 F. 55 F.	
	Height, 842 feet.					
11½	Ferguson's Upper Camp, as before.	B. 377	29·196 741·9	62 F. 16½ C.	60 F. 60 F.	
	Height, 791 feet. Mean height, 795 feet, by two sets of observations.					
4½ P.M.	Camping Place.	B. 377	28·606 735·8	56 F. 13 C.	55 F.	
	Height, 1,067 feet.					
Oct. 18,	Above Ferguson's Upper Camp, going up Middle River.	B. 377	29·036 737·55	40 F. 4¾ C.	40 F. 40 F.	
	Height, 985 feet.					
10¾ A.M.	Two miles west of last station.	B. 377	18·896 733·7	39½ F. 4½ C.		
	Height, 1,135 feet.					
12	Three quarters of a mile west of last station.	B. 377	28·730	40 F.		
1 P.M.	At Large Brook, quarter of a mile west of last station.	B. 377	29·006 737·0	42 F. 6 C.	42 F. 42 F.	Weather very thick and cloudy.
Oct. 19, 8 A.M.	At Large Brook, miles above Ferguson's Upper Camp.	B. 377	29·890 734·2	36 F. 2½ C.		
	Height, 928 feet.					
10	On a hill.	377	723·8	-2 C.		
	Height, 1318 feet.					
11½	On top of a range of hills running south-west.	377	717·7	+1 C.		
	Height, 1,539 feet.					
1 P.M.	(No locality specified.)	B. 377	28·430 722·2	33 F. +0½ C.		
	Height, 1,369 feet.					
3	(No locality specified.)	377	713·4	+2		
	Height, 1,712 feet.					

*Record of the Barometric Observations, &c.—(Continued.)*

Date.	Station.	Bar.	Height.	Th. A.	Th. D.	Weather, &c.
Oct. 19, 4 P.M.	(No locality specified.)	B. 377	28·508 724·2	32 F. 0		
			Height, 1,300 feet.			
Oct. 20, 7 $\frac{3}{4}$ A.M.	(No locality specified.)	B. 377	28·728 729·7	20 F. -6 $\frac{1}{4}$ C.		
			Height, 1,330 feet.			
8 $\frac{1}{2}$	Three-quarters of a mile west of last station; 100 feet below top of hill.	377	725·5	-6 C.		
			Height, 1,485 feet.			
10 $\frac{1}{2}$	In a small brook running south.	377	733·4	-3 C.		
			Height, 1,266 feet.			
11	Top of an irregular ridge.	377	725·5	-4 C.		
			Height, 1,559 feet.			
2 $\frac{3}{4}$ P.M.	Top of a ridge.	B. 377	28·164 715·5	26 F. -4 C.		
			Height, 1,977 feet.			
4	At a ravine running west into a deep valley on the right.	B. 377	28·958 735·7	26 $\frac{1}{2}$ -3 $\frac{1}{4}$		
			Height, 1,237 feet.			
Oct. 21, 8 A.M.	Same station.	B. 377	29·188 741·2	25 F. +3 $\frac{1}{2}$ C.		
			Height, 1,188 feet.			
8 $\frac{1}{2}$	North side of ridge.	377	735·5	-3 C.		
			Height, 1,408 feet.			
12	No locality named.	B. 377	29·650 735·7	30 F. -1 C.		
			Height, 839 feet.			
4 $\frac{1}{4}$ P.M.	Head of Upsalquatch Lake.	B. 377	29·664 753·4	29 C. -1 $\frac{1}{2}$ C.		
			Height, 750 feet.			
Oct. 22, 7 $\frac{1}{2}$ A.M.	Same station.	B. 377	28·350 720·2	30 F. -0 $\frac{3}{4}$ C.		
			Height, 758 feet.			
9 $\frac{1}{2}$	Mountain half a mile west from Upsalquatch Lake.	B. 377	28·350 740·6	35 $\frac{1}{2}$ F. +1 $\frac{3}{4}$ F.		A snow squall; but after the observa- tion.
			Height, 1,707 feet.			
$\frac{1}{2}$ P.M.	Brook running into Nipisi- quit.	B. 377	29·150 740·6	35 $\frac{1}{2}$ F. +1 $\frac{3}{4}$ C.		
			Height, 1,034 feet.			
1 $\frac{1}{2}$	Large brook running south- east.	B. 377	29·040 737·65	35 F. +2 C.		Brisk westerly wind.
			Height, 1,064 feet.			



*Record of the Barometric Observations, &c.—(Continued.)*

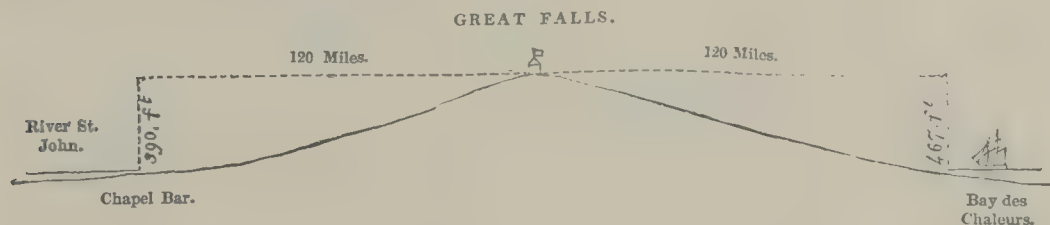
Date.	Station.	Bar.	Height.	Th. A.	Th. D.	Weather, &c.	
Oct. 23, 7 <sup>2</sup> / <sub>3</sub> A.M.	Same station.	B. 377	29·162 740·8	22 <sup>1</sup> / <sub>2</sub> F. —4 <sup>1</sup> / <sub>4</sub>			
			Height, 1,009 feet.				
			NOTE.—This discordance with the foregoing is owing to neither of the observations being simultaneous with those at the Great Falls.				
11	Top of a conical hill.	B. 377	27·884 708·3	30 F. —1 C.		Day mild and cloudy; wind west in the forenoon; in the afternoon south; and rain at night.	
			Height, 2,186 feet.				
12	In a battery.	B. 377	28·642 729·3	—34 +1 <sup>1</sup> / <sub>2</sub>			
			Height, 1,500 feet.				
4 <sup>1</sup> / <sub>2</sub> P.M.	At a brook.	B. 377	28·986 736·4	43 F. +6 <sup>1</sup> / <sub>4</sub> C.			
			Height, 1,020 feet.				
Oct. 24, 8 A.M.	At a brook.	B. 377	28·470 724·0	41 F. +5		Rain till noon; cloudy afterwards; wind north-west (at Great Falls).	
			Height, 1,059 feet.				
10	At a large brook.	B. 377	28·536 725·1	43 F. —6 <sup>1</sup> / <sub>4</sub>		In the morning, wind south; at noon, changed to north-west, and blew smartly; heavy rain till 3 o'clock, P.M.	
			Height, 590 feet.				
Oct. 25, 1 <sup>3</sup> / <sub>4</sub> P.M.	Head of Nictau Lake.	B. 377	29·338 745·5	44 F. 7 C.			
4 <sup>1</sup> / <sub>2</sub> P.M.	Same station.	B. 377	29·346 745·5	38 <sup>1</sup> / <sub>2</sub> F. 3 <sup>1</sup> / <sub>2</sub> C.			
Oct. 26, 8 A.M.	Same station.	B. 377	29·321 745·2	32 +0 <sup>3</sup> / <sub>4</sub>		Cloudy morning.	
			Height, 780 feet.				
			The above height is deducted from observations made on the Queen's Wharf at Quebec; the barometers referred to each other being distant 250 miles. The same height obtained by former observations referred to the Great Falls; (the barometers, in those cases, being distant about 60 miles from each other,) is as follows:—				
			785 feet.				
			772				
			765				
			782				
			785				
			Mean 777 feet.				
Oct. 27, 12	At Bare's Camp.	B. 377	29·200 751·5	53 <sup>1</sup> / <sub>2</sub> F. 12 <sup>1</sup> / <sub>2</sub> C.		Weather hazy.	
4 P.M.	Lower Portage on the Nictau stream.	B. 377	29·236 741·2	52 F. 12 <sup>1</sup> / <sub>4</sub> C.			
Oct. 28, (No time stated).	Same station.	B. 377	19·228 742·3	43 F. 6 <sup>1</sup> / <sub>2</sub> C.			
(No time stated).	Ridge on south side of river.	B. 377	28·482 723·5	46 F. 9 <sup>1</sup> / <sub>2</sub> C.			
11 <sup>1</sup> / <sub>2</sub> A.M.	Side of river, one mile below Portage.	B. 377	29·220 742·1	46 F. 8 <sup>3</sup> / <sub>4</sub> C.			
Oct. 29, 8 A.M.	Forks of Nictau Lake.	B. 377	29·254 743·4	43 F. 6 <sup>1</sup> / <sub>2</sub> C.			

[illegible]



On a review of the above register, and of the results obtained therefrom, it will be seen that the most remarkable are the inferences respecting the difference of level between the sea at high water in the Bay des Chaleurs, and the same in the Bay of Fundy, and the height of Nictau Lake as deduced from the Great Falls, and subsequently from Quebec.

The particulars of the first have been already detailed, and it will not, therefore, be necessary to recapitulate them here; but a small diagram is annexed explanatory of the results obtained, and intended to represent a section of the country from Chapel Bar to the Great Falls, distant about 120 miles, and from thence to Bathurst in the Bay des Chaleurs, about the same distance; the former part of the section being in a direction north-east, and the latter to the north of west:—



Showing a barometric difference of altitude between high water mark, in the Bay des Chaleurs and Chapel Bar in the River St. John, in the Bay of Fundy, of 77 feet.

The second case is equally remarkable, and not the less worthy of observation.

The height of Nictau Lake, one of the sources of the Tobique River, was ascertained by barometrical measurement, made during several successive days in the latter part of September, to have an altitude above high water, at Chapel Bar, of 777 feet, by reference to the fixed barometer at the Great Falls.

One month subsequently, viz., on the 26th of October, an opportunity offered of comparing the same height with that obtained from Quebec, at high water mark in the River St. Lawrence. The result so obtained, 786 feet, leaves little room to desire a more satisfactory proof of the fidelity of the whole series of observations, and of the just deductions stated in the Report, that the line of maximum elevation is continuous from the south of the river Rostook to the Bay of Chaleurs. The following section is nearly in a direct line a little to the west of north from Quebec to the Nictau Lake, and south-west from Nictau Lake to Chapel Bar:—



Barometric observations for determining the height of the Observatory at the Great Falls.

The Barometers used for this purpose were as follows:—

	A
	B
No.	1
	2
	3
	4
	373
	374
	376
	377

On the 2nd of September the above barometers were carefully read and registered in the Observatory, and the temperatures of the attached and detached thermometers also taken.

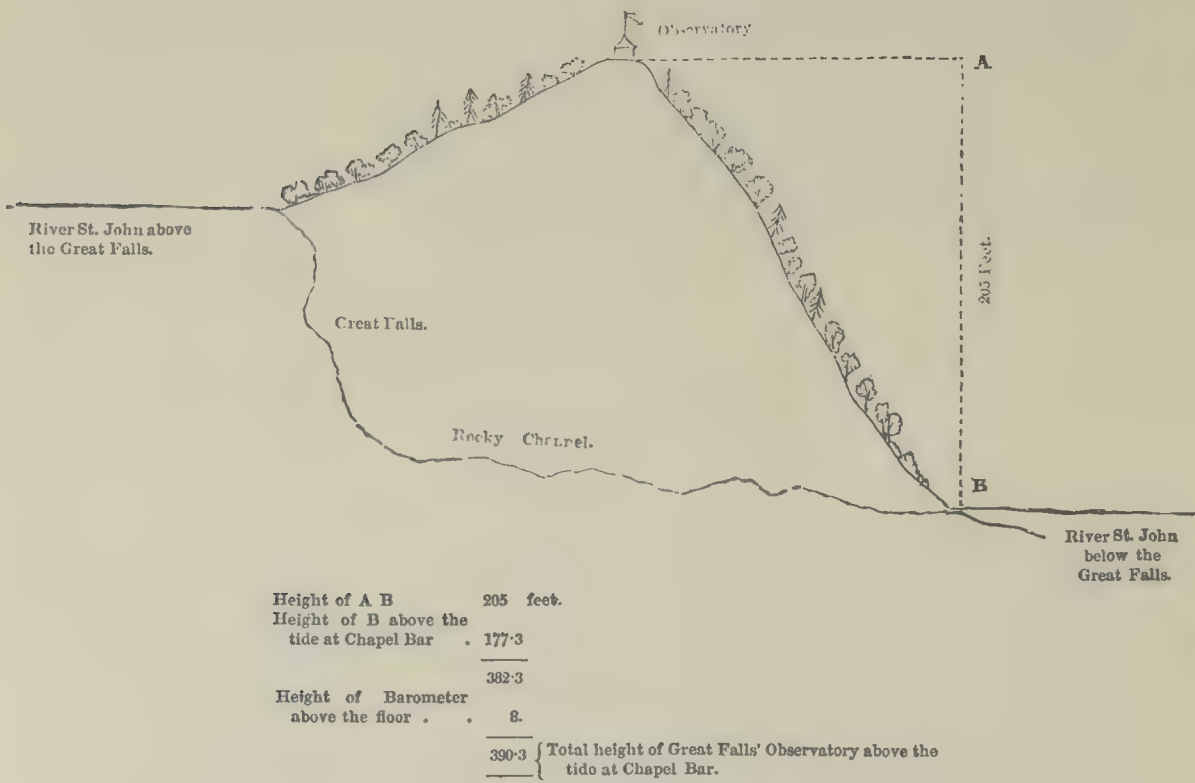
Barometer A was left stationary in the Observatory, and the remainder conveyed to the basin below the Great Falls, where they were placed in a sheltered position, five feet above the water, and carefully registered.

They were afterwards replaced, as soon as possible, in the Observatory, and the register repeated. The difference in the reading before and after the removal and replacement was trifling. The following is a detail:—

Record of the Barometric Observations, &c.—(Continued.)

Date.	Station.	Bar.	Height.	Th. A.	Th. D.		
Sept. 2, 3 P.M. .	In the Observatory at the Great Falls, three feet above the ground.	A.	29.740	24 C.	20½ C.		
		B.	29.712	23 C.	20½ C.		
		No. 1	29.735	68½ F.	70		
		2	29.739	68½ F.	72		
		3	29.720	67½	70		
		4	29.746	68	70		
		373	754.7	21 C.	21		
		374	754.8	21 C.	21		
		376	755.2	21 C.	21		
		377	754.75	21 C.	21		
		„ 5 P.M. .	Five feet above the River, below the Great Falls.	B.	29.790	24 C.	
No. 1	29.881			76 F.	73½ F.		
2	29.838			76½ F.	73½ F.		
3	29.812			78½ F.	73½ F.		
4	29.838			79 F.	73½ F.		
373	756.8			23 C.	23 C.		
374	756.85			23½ C.	23 C.		
376	757.3			23 C.	23 C.		
377	757.25			24 C.	23 C.		
„ 5½ P.M. .	In the Observatory above the Great Falls, after the foregoing observations			A.	29.730	22½ C.	22 C.
				B.	29.680	21½ C.	22 C.
		No. 1	29.717	74 F.	75 F.		
		2	29.737	74 F.	75 F.		
		3	29.695	74½ F.	75 F.		
		4	29.718	72½ F.	75 F.		
		373	754.15	20 C.	18½ C.		
		374	754.3	20 C.	18½ C.		
		376	754.3	20 C.	18 C.		
		377	754.3	20 C.	18 C.		
		Height of the Observatory at the Great Falls above the River below the Great Falls, 205 feet.					

DIAGRAM.



Having made every arrangement for exploring the disputed territory, with the intention of penetrating through the same to its utmost western limits, the Commissioners and party, with the remaining barometers, left the Great Falls on the 9th of September, and arrived at Tobique, a station occupied by a military store and a few dwelling-houses, nearly opposite the river of that name, the same night.



The station of Tobique is distant about six miles from the termination of the portage road, cut as a communication between the rivers St. John and Roostuck, the confluence of the latter with the former being about five miles north of the confluence of the Roostuck with the St. John.

A short distance from the junction of the Roostuck with the St. John, the navigation is interrupted by falls of no great elevation, but quite impassable. It became, therefore, necessary to transport the canoes by a portage cut for the purpose. The Commissioners and party traversed the portage road from Tobique to the river Roostuck above the Falls, conveying the instruments by hand; and they established their first camp at the termination of the portage, about a mile distant from Fort Fairfield,—a work of some strength, recently erected by the State of Maine, to command the access to the Roostuck.

A wanton and unprovoked attack had been made on this fort two nights preceding by a party of lumberers, unfortunately led on by persons of superior station, who had provided themselves with arms by breaking open the Government store at Tobique. The attack was prevented before it could take effect, by the watch-fires of the Americans, which betrayed the approach of the hostile party who fled, after receiving and returning the fire of the sentry, leaving behind some of their arms in their hurry to escape.

This unforeseen and untoward occurrence appeared to threaten at first a serious, if not a total, interruption to the proceedings and arrangements, of the Commissioners. It had been publicly known, and stated to the Governor of Maine, that their intention was to penetrate into the interior of the disputed territory by way of the Roostuck; and their arrival at that river, and consequent passage under the walls of the fort, had been fixed and intended for the day on which the meditated attack took place. Some delay in collecting all the canoes had, however, fortunately occurred, to detain the party at the Great Falls beyond the expected time, and the good sense of the Commander of Fort Fairfield at once led him to perceive, that the Commissioners, and those under their orders, had no connection with the parties who endeavoured to commit this lawless, mischievously-timed, and unjustifiable aggression.

Having politely received the visit and explanation of the Commissioners, he ordered the boom to be raised which obstructed the navigation of the river; and on the following day, viz. the 11th of September, the party passed the barrier.

It may appear superfluous to remark, that the orders to the Commissioners being special, and limited to one object, it was no part of their duty to make a reconnoissance of a military character, or to examine into the construction or strength of Fort Fairfield; but statements having been made in the American newspapers, implying that their operations had reference to the future establishment of military posts, it becomes necessary to state, that, in profiting by the passport of the Governor of the State of Maine, and by the politeness of the Commandant of Fort Fairfield, they felt themselves precluded from making the slightest examination into the nature of its defences.

Before leaving the camp it had been determined to explore to the summit of a hill immediately above the Falls of the Roostuck, and evidently connected in its character with the heights on the opposite side, the connection being interrupted by the river which is precipitated over the ledge of rocks forming the junction. The top of the hill was as usual covered with tall trees, and from the summit of one, bearings were taken in several directions.

*Record of Barometric Observations made at the First Camp on the Roostuck.*

Date.	Station.	Bar.	Height.	Th. A.	Th. D.
Sept. 11, 8 A.M.		A.	29·142	14½ C.	14½ C.
	First Camp on the Roostuck, six miles above the confluence with the River St. John. The Falls intervening.	No. 2	29·524	58 F.	58 F.
		3	29·491	58 F.	58 F.
		373	748·55	14½ C.	14½ C.
		374	748·96	15 C.	14½ C.
		376	748·1	14½ C.	14½ C.
Height, 180 feet.					
„ 1 A.M.		376	748·5	18 F.	18½ C.
„ 2	Two miles below the Camp, five feet above the River.	376	749·0	18 C.	18½ C.
„ 2½	Summit of Hill.	376	734·85	18 C.	18½ C.
		..	735·35	..	..
„ 4	At Camp on return.	..	747·4	18 C.	18½
Height, 710 feet.					

Heavy rain coming on, accompanied with a strong wind which agitated the surface of the river, to an extent to threaten danger to the heavy loaded canoes, the party halted earlier than was intended.

The camp was formed on the right bank of the river, below the confluence of the little Madawasca which falls in on the opposite side. Night had closed in, accompanied with continued heavy rain and wind, before their party and stores could be placed under shelter.

The following day the expedition proceeded and made considerable progress, though some delay was occasioned by one of the Indians, who found that the labour required was more unremitting and constant than was consistent with the ordinary habits of the savage tribes, whose exertions, when driven by hunger to obtain subsistence, usually terminate with the acquirement of a sufficiency for present wants. At the remonstrance, however, of the other excellent Indian guide, he was at last induced to proceed, though he never afterwards proved either a diligent or useful auxiliary. The proceedings and daily advancement were uninterrupted, until the arrival of the party at the Forks of the Roostuck, so termed by the junction of the rivers Milenekak and Manasawgun, being the channels of two of the sources of the Roostuck, which, from that point, loses its name.

*Record of the Barometric Observations, &c.—(Continued.)*

Date.	Station.	Bar.	Height.	Th. A.	Th. D.	Weather, &c.	
Sept. 13, 6 A.M.	Camp on Roostuck, ten feet above the right bank of the River.	*374 373	753·85 753·7	+ 3 C. 3 C.	+ 4 C. 4 C.		
Height, 291 feet.							
7 $\frac{1}{4}$	Top of Hill, distant two miles.	373 374	734·3 734·75	5 $\frac{1}{2}$ C. 5 $\frac{1}{2}$ C.	6 C. 6 C.	Temperature of air, at 10 $\frac{1}{2}$ A.M., +11 C.; Ditto of river, + 9 C.; no fog or mist; cloudy but clear.	
8 $\frac{1}{4}$	Again at Camp.	373	753·6	7 C.	6 C.		
10 $\frac{1}{2}$	.. ..	374	754·0	7 C.	6 C.		
Height, 918 feet.							
Sept. 14, 1 A.M.	At the foot of a Hill, on on the right bank of the Roostuck.	373 376	755·2 755·7	13 $\frac{3}{4}$ C. 13 $\frac{3}{4}$ C.	13 $\frac{3}{4}$ C. 13 $\frac{3}{4}$ C.	Temperature of air, at 6 A.M., 26 $\frac{1}{2}$ F.; Ditto, — 1 $\frac{1}{2}$ C.; ice and hoar frost.	
1 $\frac{1}{2}$	On the summit.	373 376	745·05 745·35	12 $\frac{1}{2}$ C. 12 $\frac{1}{2}$ C.	12 C. 12 C.		
2	Again at the foot of the hill, as before.	373 376	755·25 755·60	14 $\frac{1}{2}$ 14 $\frac{1}{2}$	14 C. 14 C.		
6	Summit of Hill, height 678 feet. Camp, 288 feet.						
Sept. 15, 7 A.M.	.. ..	..	..	..	..		
1 P.M.	At Forks on Roostuck.	373 376	751·25 751·3	16 $\frac{1}{2}$ C. 16 $\frac{1}{2}$ C.	60 F. 60 F.	Temperature of air, 28 F.	
9	.. ..	..	..	..	..	Temperature of air, 59°; ditto of Ri- ver, 54°.	
Height, 625 feet.							
Sept. 16, 3 $\frac{1}{2}$ P.M.	Foot of Hill, on River Roostuck.	373 376	750·0 750·3	16 $\frac{1}{2}$ 16 $\frac{1}{2}$	60 $\frac{3}{4}$ F. 60 $\frac{3}{4}$ F.		
4	Top of Hill.	373 376	747·1 747·45	16 $\frac{1}{2}$ C. 16 $\frac{1}{2}$ C.	60 F. 60 F.		
4 $\frac{1}{4}$	Again at foot of Hill.	373 376	750·1 750·15	16 C. 16 C.	60 $\frac{1}{2}$ F. 60 $\frac{1}{2}$ F.		
Summit of Hill, height 654 feet.							
Sept. 17, 12 $\frac{1}{2}$	On River Roostuck.	373 376	749·75 750·2	17 $\frac{1}{2}$ C. 17 $\frac{1}{2}$ C.	17 C. 17 C.		
Height, 537 feet.							

\* Barometer No. 374 was broken this day in one of the canoes.



Record of the Barometric Observations, &c.—(Continued.)

Date.	Station.	Bar.	Height.	Th. A.	Th. D.	Weather, &c.
Sept. 17, 1 P.M.	Summit of Hill above the River on the right bank.	373	739.5	16 C.	16 C.	
		376	740.1	16 C.	16 C.	
		Height, 912 feet.				
8	At the Camp, six miles above St. Croix.	373	749.8	12 $\frac{3}{4}$ C.	13 $\frac{1}{2}$ C.	
		376	750.2	12 $\frac{3}{4}$ C.	13 $\frac{1}{2}$ C.	
		A.	29.545	13 C.	13 $\frac{1}{2}$ C.	
		No. 2	29.570	55 $\frac{1}{2}$ F.	58 F.	
		3	29.531	55 $\frac{1}{2}$ F.	56 $\frac{1}{2}$ F.	
Height, 554 feet.						
10 $\frac{1}{2}$	.. ..	..	..	..	..	Temperature of air, 58° F.; ditto of river, 55°.
Sept. 18, 8 P.M.	Camp on the Roostuck, right bank (called Po- tatoe Camp.)	A.	29.469	56 F.	53 F.	
		No. 2	29.495	55 F.	54 $\frac{1}{2}$ F.	
		3	29.471	55 F.	53 F.	
11 P.M.	.. ..	373	747.9	12 $\frac{1}{4}$ C.	12 $\frac{1}{2}$ C.	Temperature of air, 57°; ditto of wa- ter, 57°. Rain all the after- noon and night; wind south-west, and very little of it.
		376	748.3	12 $\frac{1}{4}$ C.	12 $\frac{1}{2}$ C.	
		Height, 565 feet.				

The party arrived at the forks of the Roostuck, formed by the junction of the Millenakak and Manasawgun Rivers, on the 19th of September.

For the preceding three days the state of the main river had given warning, that the navigation would thereafter become difficult, so as to render the ascending to either, or both, of the sources of the above-named tributaries hard, if not impracticable. But the fulfilment of the chief objects of the expedition altogether depending on the successful accomplishment of the undertaking, the Commissioners had no alternative, and first attempted the Millenakak, the southernmost of the two, with a small squadron of the light canoes and a few axemen, leaving the strength of the party at the forks to await their return.

The character of the Millenakak proved to be a succession of shoals and rapids, requiring great strength and skill to propel the canoes against the force of the stream, at the same time rendering proportionate care indispensable, to avoid the numerous rocks which everywhere abound.

The ordinary log canoes, constructed by hollowing out a single tree, are capable of receiving severe shocks with comparatively little injury; but the frail Indian bark canoes, made of the lightest materials for carriage across the portages, and covered with a single sheet of birch bark, are easily damaged by collision, and soon destroyed. The stream, shortly after leaving the forks, began to assume the character of a mountain torrent, here and there further embarrassed by the accumulation of huge trunks of trees, carried down by the floods at the annual melting of the snow. These barriers occasionally extended completely across the river, entirely blocking up the passage. Where they consisted of only a few trees, by dint of hard labour and the vigorous application of the axe, a channel was cut through just wide enough for the canoes to pass; and in the case of too great an accumulation of fallen timber to permit of that expedient, it became necessary to unload and drag them over the obstruction. After overcoming a succession of such difficulties, the ascent of the Millenakak to a large lake at its source was length attained. Barometric observations were made on the following morning at the camp, which had been formed on the east side of the lake.

Record of the Barometric Observations, &c.—(Continued.)

Date.	Station.	Bar.	Height.	Th. A.	Th. D.
Sept. 20, 8 A.M.	Camp on the east side of the Lake Millenakak.	373	741.35	12 C.	12½ C.
		376	742.0	12 C.	12½ C.
Height, 678 feet.					

The return down the river was not accomplished without an equal proportion of risk and exertion. The descent was more rapid, but more dangerous, the rapidity of the stream being as difficult to control in descending, as it had been to surmount in the ascent. The canoes were frequently half filled with water, and one was actually swamped, but so near to the margin of the river that it was easily forced towards the shore, and soon emptied.

At length arriving at the camp at the forks, the Commissioners had the satisfaction of finding the party they had left there refreshed by the rest; and an Indian, who had refused to accompany them up the Millenekak, professing to be sick and unable to move, well enough to proceed on the following day. This was the same Indian before alluded to; and, although no doubt he was fatigued with the constant labour of the preceding nine days, it was suspected that his illness was more assumed than real, and proceeded either from fear or indolence, probably from a mixture of both.

On the 21st of September, the expedition proceeded to explore the second tributary to the Roostuck, the river Manasawgun, which, after a repetition of difficulties and obstructions similar to those experienced on the Millenekak, they happily accomplished. The subsistence of the party altogether depended on the success of the attempt, the expenditure of provisions having proved greater than was expected, with no other prospect of a fresh supply than such as was *hoped* to be found at the lake Wallagasquigum, yet some days journey distant.

The following Thermometric Observations were made during the ascent of the river, with a view to infer the proximity of the lakes, which were known to form its source, by the expected increase of temperature of the larger body of fresh water, their actual position being conjectural and inferred only from the Indian statements.

8 A.M.	Temperature of Air	.	.	49°
	River	.	.	54
11.	Temperature of Air	.	.	49
	River	.	.	57
4 P.M.	Temperature of Air	.	.	50
	River	.	.	59
* 5½.	Temperature of Air	.	.	45
	River	.	.	60
At the camp on the lake on the following morning, September 22;				
7 A.M.	Temperature of Air	.	.	45°
9½.	Ditto	.	.	48
	Water	.	.	57

The party having succeeded in arriving at the third lake above the Manasawgun, prepared to ascend to the summit of a mountain above it on the following day. Barometric Observations were accordingly made as here detailed.

Date.	Station.	Bar.	Height.	Th. A.	Th. D.	Weather, &c.
Sept. 23, 8 $\frac{1}{2}$ A.M.	Camp on 3rd Lake above the River Manasawgun.	A.	28·75	55 F.	55 F.	
		No. 2	28·749	56 $\frac{1}{2}$ F.	57 F.	
		3	28·690	56 $\frac{1}{2}$ F.	56 $\frac{1}{2}$ F.	
		373	728·2	13 C.	55 $\frac{1}{2}$ F.	
		376	728·8	13 C.	56 F.	
Height, 676 feet.						
12 $\frac{1}{2}$	Top of mountain.	A.	27·638	53 F.	53 F.	
		No. 2	27·685	56 F.	56 F.	
		3	27·632	56 F.	56 F.	
		373	701·45	12 $\frac{1}{2}$ C.	12 $\frac{1}{2}$ C.	
		376	701·65	12 $\frac{1}{2}$ C.	12 $\frac{1}{2}$ C.	
Height, 1,833 feet.						
3 P.M.	Near the top, descending.	376	707·0	12 C.	12 C.	
		373	706·6	12 C.	12 C.	
Height, 1,636 feet.						
6	At bottom of mountain on the portage at Camp.	A.	28·822	12 C.	10 $\frac{1}{2}$ C.	
		No. 2	28·867	57 F.	53 F.	
		3	28·815	55 F.	50 F.	
		373	731·0	10 $\frac{1}{2}$ C.	10 $\frac{1}{2}$ C.	
		376	731·5	11 C.	10 C.	

\* Lake half a mile distant.



*Record of the Barometric Observations, &c.—(Continued.)*

Date.	Station.	Bar.	Height.	Th. A.	Th. D.	Weather, &c.
Sept. 24, 8 A.M.	Same station.	A.	28·886	44	44	Temp. of air, 47° water, 50 (Still water ascending from Lake.)
8 $\frac{3}{4}$	.. ..	No. 2	28·915	43 $\frac{1}{2}$	44	
		3	28·862	43 $\frac{1}{2}$	44	
		373	732·8	7	7	
		376	733·5	7	7	
Sept. 26, 8 A.M.	At Camp near the brook running to the north, being the dividing line of the waters, running south-west into the Manasawgun and Roostuck, and north-west to the 4th Lake (Wallagasquigwam) and Allegash.	A.	28·462	8 $\frac{1}{2}$ C.	8 C.	
		No. 2	28·502	47 $\frac{1}{2}$ F.	46 $\frac{1}{2}$ F.	
		3	28·445	..	..	
		373	722·0	8 $\frac{1}{2}$ C.	8 $\frac{1}{2}$ C.	
		376	722·85	8 $\frac{1}{2}$ C.	8 $\frac{1}{2}$ C.	
Height, 1,059 feet.						

Subsequently to commencing the ascent of the Manasawgun River, not a little anxiety had been felt and expressed by some of the party to obtain intelligence of the expedition dispatched from the Great Falls, under the charge of Captain Hansard, of New Brunswick, who had been recommended by Sir John Harvey to convey a stock of provisions up the River St. John to the mouth of the Allegash, and thence up that river to Lake Wallagasquigwam.

Captain Hansard, with a party of French canoemen from the Settlement of Madawaska, and an experienced Indian guide, had left the Great Falls the day following the departure of the Commissioners, with a supply of provisions for their future use. His instructions were to proceed up the St. John's to the confluence of the Allegash, and to explore that river to its source, which was known to be the Lake Wallagasquigwam, or Fourth Lake, being the most remote of a series of lakes from its mouth.

To this point the Commissioners intended to penetrate by means of the Roostuck, with its lakes and portages. They took with them what was deemed to be an ample allowance of salt pork and biscuit, to accomplish that object, and to subsist the party until they should receive a fresh supply, which was to be deposited by Captain Hansard in a small island, nearly in the middle of Lake Wallagasquigwam. Although every precaution had been taken in ascending the Roostuck to prevent a wasteful expenditure of the provisions, the consumption was much greater than had been expected. On arriving at the head waters of the Roostuck they became nearly exhausted, and some intelligence of the arrival of the party dispatched from the Great Falls, by way of the Allegash, was anxiously looked for. Although no doubt was originally entertained that the navigation of the Allegash would be found perfectly practicable, yet it could not be considered as altogether certain, within the projected time, at least, as the river was very low for the season, and fallen timber or some like contingency, to which such expeditions are liable in countries little known, might have occurred to impede altogether or delay its progress to a serious extent.

It was not, therefore, without great satisfaction to the leaders, and a more noisy expression of joy from others, that the first signals of relief were heard. The distant reverberation, caused by the discharge of two muskets, which came from the expected direction, and the appearance within a few hours afterwards of two scouts dispatched by Captain Hansard two days in advance, to meet the party expected in an opposite direction, gave great satisfaction to all. This was further increased by the information that two moose had been killed, one of them of such a size as to secure a future supply of fresh meat, a luxury duly appreciated by those who had been subsisting up to that period on salt provisions only. The Commissioners immediately pushed forward with a small squadron of light canoes to join Captain Hansard, chiefly for the purpose of sending back, with as little delay as possible, a sufficient supply to maintain the party, who had yet some difficult portages and navigation to perform before they could arrive at the shores of the Lake Wallagasquigwam.

This lake, from its elevated position and size, is subject to great agitation from the force of wind. On the night of the arrival of the Commissioners on the beach opposite to where Captain Hansard's encampment had been made, a storm occurred from the north-west, to render the passage hazardous: they accordingly bivouacked close to the margin, and effected their purpose on the following morning. They found on their arrival the relief party, well posted in a spot abounding with hard wood for firing sufficient for several days. The island which had been originally fixed on for the purpose did not prove large enough, or contain wood proper for fuel. No fatal accident occurred to any of the party in crossing this dangerous sheet of water, though such an event had nearly happened.

The canoe conveying the Commissioners' servants was upset nearly in the middle, and but for the presence of mind of the parties, and the ready and judicious aid afforded by the two corporals of the Royal Sappers and Miners, who were also crossing in a canoe at no great distance, they must inevitably have been drowned, the water exceeding in all probability forty feet in depth, and the distance from either shore a mile and a half. The doleful cry which announced the misfortune first drew attention to the spot, and the desperate condition of the suffering parties, soon became evident by means of a telescope. They were, however, rescued, as has been stated, and afterwards brought to the shore, by the aid of a party who proceeded as quickly as possible to their relief, without any other injury than cold and exhaustion. One of the barometer stands and some articles belonging to the Commissioners went to the bottom; but they were the less regretted, as in addition to the probable loss of life, it was at first believed that all their valuable papers, clothes, and such baggage as they possessed, had shared the same fate.

A similar incident occurred on the following day to Captain Hansard and one of the Indians. A moose, supposed to be the dam of one of the two shot a few days previously, had been heard bellowing at a distance. In searching for it near the shore of the lake, the discharge of the gun overset the canoe. The Indian not being able to swim, a circumstance very unusual with the savage tribes, was on the point of being drowned but for Captain Hansard, who saved his life by assisting him to support himself on the bottom of the canoe, and safely conveyed him to the shore, after the lapse of half an hour. They were both greatly exhausted, and suffering extremely from cold on arriving at the camp.

The camp on Lake Wallagasquigwam offered the means of repose and rest which had become necessary, as also for concerting future operations. The barometers were placed in a secure and permanent position for observation, at the periods named for the like purpose at the Great Falls. The results are as follows:—

*Record of the Barometric Observations, &c.—(Continued.)*

Date.	Station.	Bar.	Height.	Th. A.	Th. D.	Weather, &c.
Sept. 28, 8 A.M.	Camp on Lake Wallaga- quigwam Windy, or 4th Lake.	A.	28.974	2½ C.	2½ C.	Temperature of air, 6 A.M., 35° C.
		No. 2.	29.021	36½ F.	38 F.	
		3	28.890	36½ F.	34 F.	
		373	735.9	3 C.	2½ C.	
		376	736.2	3 C.	2½ C.	
12	Same station.	A.	29.062	6 C.	4½ C.	
		No. 2.	29.080	44 F.	43 F.	
		3	29.016	43½ F.	43 F.	
		373	736.8	5½ C.	4½ C.	
		376	736.65	6 C.	4½ C.	
4 P.M.	Same station.	A.	29.060	5½ C.	4½ C.	
		No. 1.	29.088	43 F.	42 F.	
		3	29.039	41 F.	42 F.	
		373	736.9	5 C.	4½ C.	
		376	737.05	5 C.	4½ C.	
Sept. 29, 9½ A.M.	Same station.	A.	29.180	6½ C.	4¾ C.	Temperature of air, 6 A.M., 29° F.
		No. 1.	29.220	44 F.	43 F.	
		3	29.140	41½ F.	40½ F.	
		373	740.1	6½ C.	4¾ C.	
		376	740.0	6½ C.	4¾ C.	
12	Same station.	A.	29.191	8¾ C.	7 C.	
		No. 2.	29.235	49½ F.	46½ F.	
		3	29.175	47½ F.	44½ F.	
		373	740.8	8½ C.	7¼ C.	
		376	740.9	8½ C.	7¼ C.	
4 P.M.	Same station.	A.	29.182	8½ C.	6½ C.	
		No. 2.	29.230	45½ F.	45 F.	
		3	29.179	45¼ F.	43 F.	
		373	740.5	7 C.	6½ C.	
		376	740.1	7 C.	6½ C.	
Height, 868 feet.						
Sept. 30, 8 A.M.	Same station.	A.	29.316	+3½	+3	Temperature of air, 6½ A.M., 27 F.
		No. 2.	29.372	37	37	
		3	29.321	36½	37	
		373	744.0	+3	+3	
		376	744.1	+3	+3	



Oct. 1, 6½ A.M. Temperature of Air, 33°  
1 P.M. " " 45  
" " Lake, 53

The party having obtained the necessary rest at the lake, and future operations having been determined, two divisions were formed, one to explore to the north as far as the head waters of the Penobscot; the other to proceed down the river Allegash, and to ascend the St. John's, from its confluence to the Lake Woolastaguam, where a rendezvous was appointed, and expected to take place within a fortnight.

Some of the canoemen with their canoes were here discharged and ordered to return to the Great Falls, and thence to Frederickton.

The navigation of the Allegash, which had been found difficult by the party ascending it from the Great Falls, became still more so in the descent, owing to the low state of the waters usual towards the close of the autumn, when they have their minimum height for the year. At the debouchement of the Allegash from the lake, and about two miles below it, a formidable rapid was passed by portage, and another occurred shortly afterwards, which much damaged one of the canoes, but the navigation was effected without other injury as far as the termination of a chain of lakes, when it became necessary to abandon the damaged canoe, transferring the men belonging to it to one of those which had been intended to be discharged.

From the termination of the above-mentioned chain of lakes, forming the head waters of the Allegash, to the falls of that river, a continued series of rapids and shoal water alternates with occasional deep pools and still water. Some of the rapids are formidable and the velocity great. The falls of the Allegash, although not so considerable as the Great Falls of St. John, either in their height or in the volume of water precipitated over its bed, are yet an impassable barrier, and the canoes and instruments, as also the provisions, were transported across a portage to the river below the falls.

At some distance below the falls are again rapids, a succession of which continues nearly to the confluence of the river with the St. John's: one of them is both difficult and dangerous. Five canoes were swamped in this rapid, and one dashed to pieces amongst the rocks. The men escaped with a few bruises only. An Indian, the same who was the subject of particular notice before, and who was so nearly drowned in Lake Wallagasquigwam, became so much alarmed, that he totally lost all self-possession, and declared himself unable to manage his canoe, which was transferred to another. This is not the fault of the Indians generally; they are brave and skilful, and by far the best conductors, both for intelligence and with reference to personal safety.

From the confluence of the Allegash to the exit of the St. John's River from the Lake Woolastaguam, the navigation is subject to few serious interruptions, as far up as a group of islands, the Indian name of which is Unsesevaqui, and passable without damage to canoes with tolerable skill and care; but above the islands to the lake at the head of the eastern branch of the St. John's, it is of the worst possible description, and to one, not intent on overcoming difficulties, and unused to such a species of navigation, would appear insurmountable, there being no other means of progress, the woods being impenetrable even to an Indian dog till the snow falls; the ascent of the river was therefore accompanied with much difficulty, and the injury to the canoes, especially to those belonging to the Indians, was to a serious extent.

On Sunday, the 13th of October, this branch of the expedition succeeded in reaching the point of rendezvous, and accomplished a meeting as projected, having been anticipated by the party who went south to the head waters of the Penobscot, and were anxiously expecting them, their provisions being nearly expended; though they were fortunately relieved from the fear of actual starvation by having succeeded in killing a fine moose. Two noted Indian hunters were also fallen in with, who had been successful with moose, beavers, and water-birds of various kinds, so that supplies were thenceforward in abundance.

Register of the Barometer from Lake Wallagasquigwam, descending the Allegash and ascending the River St. John, to the Lake Woolastaguam.

Date.	Station.	Bar.	Height.	Th. A.	Th. D.	Weather, &c.
Oct. 2, 8 A.M.	First Camp, at the foot of the portage, below the Lake Wallagasquigwam.	376 ..	741·3 741·2	6 C. 6 C.	42 F. 42 F.	
			Height, 831 feet.			
11	.. ..	..	..	..		Temp. of Air, 46° " River, 51
Oct. 3, 8 A.M.	At Camp, about twenty miles below the Lake on the Allegash.	376 ..	732·75 732·9	8½ C. ..	47 F. ..	
			Height, 731 feet.			
3 P.M.	.. ..	..	..	..		Temp. of Air, 49° " River, 50

*Record of the Barometric Observations, &c.—(Continued.)*

Date.	Station.	Bar.	Height.	Th. A.	Th. D.	Weather, &c.
Oct. 4, 8 A.M.	Camp above the Falls of the Allegash.	376 ..	734·9 734·9	8½ C. ..	39 ..	
	Height, 637 feet.					
9½	.. ..	..	..	..	..	Temp. of air, 40°; wind north-west; cold with snow and sleet. The ther- mometer could not be held with safety in the water, owing to the rapidity of the stream.
Oct. 5, 8 A.M.	Camp on the right bank of the St. John's River, half a mile above the Confluence of the Alle- gash.	376 ..	755·45 755·5	-1½ C. -1½ C.	30 F. ..	
7 P.M.	.. ..	..	..	..	..	Temp. of air, 27° F.
10½	.. ..	..	..	..	..	Temp. of river, 42° " air, 32
	Height, 515 feet.					
Oct. 6, 8 A.M.	At Camp, ten miles above the Confluence of the Allegash, on the River St. John.	376 ..	760·75 760·75	-4 C. -4 C.	25 F. ..	
6½ P.M.	.. ..	..	..	..	..	Temp. of air, 21½° F.
	Height, 574 feet.					
Oct. 7, 8 A.M.	At Camp on St. John's River.	376 ..	753·45 753·4	-0½ C. -0½ C.	31 F. ..	
	Height, 659 feet.					
Oct. 8, 8 A.M.	At Camp on St. John's, about ten miles above the Great Black River.	376 ..	748·2 748·2	7½ 7½	46 ..	
1 P.M.	.. ..	..	..	..	..	Temp. of air, 58° " river, 46
	Height, 712 feet.					
Oct. 9, 8 A.M.	Camp on St. John's, north of the Islands Unseseva- que. (Beaver Camp.)	376 ..	744·2 744·2	11 C. 11 C.	53 F. ..	
2½ P.M.	.. ..	..	..	..	..	Temp. of air, 60° " river, 52
	Height, 830 feet.					
Oct. 10, 8 A.M.	Camp on St. John's River, estimated ten miles above the Islands.	376 ..	735·0 735·0	9½ C. 9½ C.	50 ..	
	Height, 855 feet.					
Oct. 11, 8 A.M.	Camp, estimated half a mile below the Forks, formed by the confluence of the Metawaquem River with the St. John.	376 ..	739·75 739·75	-3½ C. -3½ C.	25 F. ..	
	Height, 910 feet.					
Oct. 12, 8 A.M.	Camp on St. John's, ten miles above the Forks.	No. 2	29·118	29 C.	32 F.	
	Height, 952 feet.					
Oct. 13, 8 A.M.	Camp on St. John's, esti- mated three miles below the Lake Woolastiqui- guam.	376 ..	729·15 729·1	8 C. ..	46½ F. ..	
	Height, 1,049 feet.					



*Record of the Barometric Observations, &c.—(Continued.)*

Date.	Station.	Bar.	Height.	Th. A.	Th. D.	Weather, &c.
Oct. 13, 11½ A.M.	.. .. .	..	..	..	..	Temp. of river, 45°
11¾	Lake Woolastaguagam.	No. 3 373	28·650 727·8	55 F. 14 C.	55 14 C.	
Height, 1,075 feet.						

*Register of Barometric Observations from Lake Wallagasquigwam to the Head Waters of the Penobscot and Lake Woolastaguagam.*

Date.	Station.	Bar.	Height.	Th. A.	Th. D.
Oct. 1, 8 A.M.	At the south-west end of the Portage between the Allegash and Penobscot Waters.	No. 3 373	28·692 728·45	47 F. 8 C.	47 F. 8 C.
„ 9 $\frac{1}{2}$	Middle of the Portage.	No. 3 373	28·659 727·50	51 F. 10 $\frac{1}{2}$ C.	50 F. 10 C.
	Height, 1,301 feet.				
Oct. 4, 8 $\frac{1}{2}$ A.M.	On top of a hill, 1 $\frac{1}{4}$ miles west of Camp or Portage between Allegash and Penobscot waters.	No. 3 373	28·357 719·75	41 F. 3 $\frac{1}{2}$ C.	38 $\frac{3}{4}$ F. 3 $\frac{1}{4}$ C.
„ 10	At the Camp on Return.	No. 3 373	28·825 731·8	43 $\frac{1}{2}$ F. 6 $\frac{1}{2}$ C.	42 $\frac{1}{2}$ F. 6 C.
	Height, 1,150 feet (doubtful).				
Oct. 6 6 $\frac{3}{4}$ A.M.	On Sea Gull Lake.	No. 3 373	29·533 750·6	23 F. —4 C.	23 F. —4 C.
„ 10	On Small Lake at the head waters of the Penobscot.	No. 3 373	29·625 752·3	43 $\frac{1}{2}$ F. 6 C.	43 F. 5 $\frac{1}{2}$ C.
Oct. 7, 3 $\frac{3}{4}$ P.M.	Top of a hill 72 $\frac{1}{2}$ ° west of Camp on the head waters at the Penobscot River.	No. 3 373	27·951 709·7	52 F. 11 C.	51 F. 11 C.
	Height, 2,158 feet.				
„ 8, 10 A.M.	At the foot of the hill visited before.	No. 3 373	28·970 735·5	55 F. 14 C.	55 F. 14 C.
	Height, 1,300 feet.				
„ 9, 10 $\frac{1}{2}$	On top of the ridge visited on the 7th.	No. 3 373	28·404 720·9	54 F. 12 C.	53 F. 12 C.
	Height, 1,680 feet.				
„ 10, 9 $\frac{1}{4}$	Extreme Source of St. John's River above Lake Woolastaguagam.	No. 3 373	28·457 722·6	51 F. 10 $\frac{1}{2}$ C.	51 F. 10 $\frac{1}{2}$ C.
	Height, 1,315 feet.				
„ 11, 8	Portage above Lake Woolastaguagam.	No. 3 373	28·649 727·60	32 —0 $\frac{1}{2}$	32 —0 $\frac{1}{2}$
	Height, 1,349 feet.				

Register of Barometric Observations descending the River St. John, from Lake Woolastaguam to Lake Echemin.

Date.	Station.	Bar.	Height.	Th. A.	Th. D.
Oct. 15, 8, A.M.	Camp on St. John's descending river, from Lake Woolastaguam.	No. 3 373	28·991 736·4	45½ F. 7½ C.	45½ F. 7½ C.
„ 3 P.M.	Same station.	No. 3 373	28·973 735·8	53 F. 13¼ C.	56½ 13¼
„ 8	Near the same place below.	376 ..	737·2 737·0	9 C. 9 C.	42 ..
Height, 1,065 feet.					
Oct. 17, 9 A.M.	Forks of St. John's and Metawaquem.	No. 3 373	29·096 738·9	47 F. 9 C.	47 F. 9 C.
Height, 929 feet.					
Agreeing nearly with results, obtained from observations made on the 11th instant, in ascending to the lake; the former station being a short distance below.					

Having arrived at the Forks of the Metawaquem, a small river, tributary to the St. John's, the extreme source of which is near the western extremity of the disputed territory, it was proposed to proceed by ascending that river, and by portage through the woods separating it from Lake Echemin, and, gaining that lake, to proceed thence to Quebec.

The greater proportion of men and canoes were therefore here discharged, and placed under the care of Mr. Wilkinson, to return to the Great Falls by the River St. John, and thence to Frederickton, the Commissioners reserving for their own use only such as were necessary to proceed to the head of the Metawaquem, with a sufficiency of provisions to take them to Lake Echemin, the first settlement beyond the limits of the disputed territory.

The portage through the woods, from the head of the river Metawaquem to the Lake Echemin, being effected, it became obvious that the chief objects of the expedition had been attained only just in time to avoid being caught in the forest by the rigours of the fast approaching winter. The leaves had mostly fallen from the trees, and the first view of a clearing, as they gained the shore of Lake Echemin, presented to them a surface covered with snow still continuing to fall, accompanied with severe cold, which announced the close of the hitherto favourable season.

Barometric Observations at Lake Echemin.

Date.	Station.	Bar.	Height.	Th. A.	Th. D.
Oct. 20, 10 A.M.	At Lake Echemin, thirteen feet above the water.	No. 3 376	29·201 741·7	31 F. +½	36 F. +2
Height, 957 feet.					
Oct. 21,	On top of hill on Quebec road, the highest visible point of the chain of hills, claimed by the Americans as highlands.	376	736·05	+1	+3
Second Reading ditto.					
Height 1,212 feet.					
Barometer 373, and No. 3, were put up, but not registered, air being detected in both.					
Oct. 21,	On the 22nd of October, the Commissioners arrived at Quebec, and waited on his Excellency the Right Honourable Poulett Thompson, who had just landed from Her Majesty's ship Pique.				



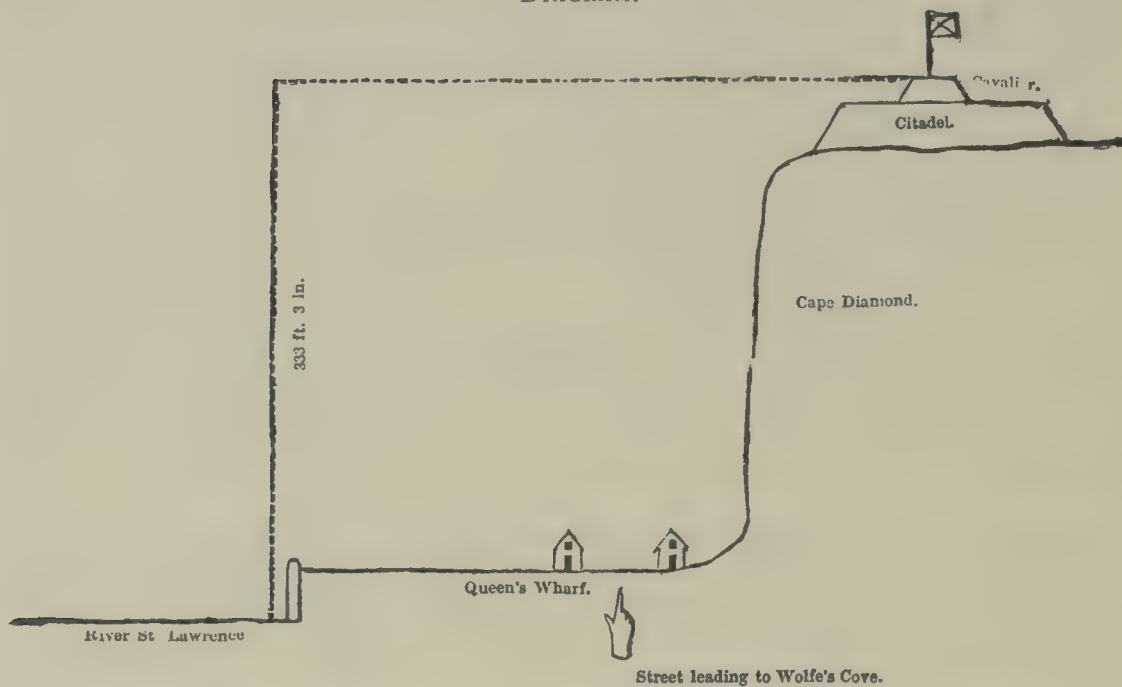
*Register of Barometric Observations made at Quebec.*

Date.	Station.	Bar.	Height.	Th. A.	Th. D.
Oct. 26, 12.	At Quebec, on the Cavalier, in the Citadel on Cape Diamond, 3 feet above the Platform, ascertained to be 333 feet 3 inches above the Platform; this was selected as being the highest known point.	A.	29·872	51½ F.	50 F.
		No. 2	29·891	51½ F.	50 F.
		No. 2	29·440	54 F.	52 F.
		..	29·440	54 F.	52 F.
		376	758·45	11 C.	50 F.
		..	758·40	11 C.	50 F.
„ 2½ P.M.	On Queen's Wharf, nine feet above high water, in the River St. Lawrence.	No. 2	30·235	57 F.	50 F.
		376	767·23	14 C.	54½ F.
		..	767·2	14 C.	54½ F.
		..	767·4	14 C.	54½ F.
		..	767·2	14 C.	54½ F.
„ 1½	Again on the Cavalier in the Citadel.	No. 2	29·882	60½ F.	56½ F.
		376	758·0	13½ C.	55 F.
		..	758·05	13½ C.	55 F.
		..	758·0	13½ C.	55 F.
		..	758·05	13½ C.	55 F.
Oct. 30, 2½	On Queen's Wharf, Quebec, same place before.	No. 2	29·737	53 F.	46 F.
		..	29·733	52 F.	45 F.
		..	29·733	50½ F.	44½ F.
		376	758·1	8 C.	44½ F.
		..	758·15	7 C.	43 F.
		..	758·1	7 C.	43 F.
„ 3¼	On the Cavalier on the Citadel, as before.	No. 2	29·529	45 F.	40 F.
		..	29·535	44¼ F.	40 F.
		..	29·526	44 F.	41 F.
		..	748·9	5½ C.	39 F.
		..	748·9	5 C.	39 F.
		..	749·0	6 C.	39 F.
		..	749·2	6 C.	39 F.
		..	749·1	6 C.	39 F.
Oct. 30, 4	On Queen's Wharf, as before.	No. 2	29·866	44 F.	43 F.
		..	29·866	44 F.	43 F.
		..	29·875	44 F.	43 F.
		376	758·1	6½ C.	42¼
		..	758·5	6½ C.	42¼
		..	757·7	6½ C.	42¼
Nov. 1, 2, P.M.	At Quebec, sixty feet above the River St. Lawrence.	376	760·7	17½ C.	63 F.
		..	760·5	17½ C.	63 F.
Nov. 2, 9	Same station.	No. 2	30·140	62 F.	62 F.
		376	764·05	16½ C.	62 F.
		..	764·01	16½ C.	62 F.
„ 11	Same station.	No. 2	30·125	57 F.	59 F.
		376	763·95	16 C.	62 F.
„ 3½	Same station.	376	762·9	16½ C.	62 F.
„ 4	Same station.	No. 2	30·076	55 F.	59 F.
		376	762·75	16 C.	62 F.
Nov. 3, 10	Same station. <sup>1</sup>	376	764·65	16 C.	60 F.
„ 11	„ „ „	..	764·45	16 C.	60 F.
„ 12	„ „ „	..	764·4	16 C.	60 F.
„ 1½, A.M.	„ „ „	..	764·1	16 C.	69 F.
„ 2½	„ „ „	..	763·8	16 C.	60 F.
„ 4	„ „ „	..	763·65	16 C.	60 F.
Nov. 6, 10½	Same station.	No. 2	29·856	50	53
		376	757·0	12½	53
„ 12½ P.M.	„ „ „	No. 2	29·748	50	53
		376	758·8	12½	53
„ 2	„ „ „	No. 2	29·705	50	53
		376	753·6	12¾	53
„ 3	„ „ „	No. 2	29·106	50	53
		376	751·3	12	53

## Height of the Platform on the Citadel of Quebec.

By First Series	. 331 feet.
By Second do.	. 332 feet.
By Measurement	. 333 feet 3 inches.

DIAGRAM.



*Register of Barometric Observations made on the River St. Lawrence on the Metise, and at the Great Falls.*

Date.	Station.	Bar.	Height.	Th. A.	Th. D.
Oct. 30,	At the mouth of the Melese River, on the St. Lawrence.	No. 3 373	29·817 757·34	42 F. 2½ C.	35½ 2 C.
Nov. 2, 1½ P.M.	On the Metise river.	No. 3 373	28·974 742·55	32 F. 0 C.	32 F. 0 C.
Nov. 3, 12	Large Lake Melese.	No. 3 373	29·416 740·7	30 -1	30 -1
Nov. 4, 10 A.M.	Last Lake of Metise.	No. 3 373	29·130 740·0	-30 -1	-30 -1
Nov. 7,	On the River St. Lawrence, at the mouth of the Metise River.	No. 3 373	29·224 742·5	72½ F. 22 C.	72? F. 22 C.
Barometer No. 3, broke by accident.					
Nov. 11, 2½	On St. Francis River.	373	743·4	70 F?	7 C.
	Hill at Temisconta Portage.	373	725·2	-3 C.	-4 C.
„ 9	Top of hill.	373	725·3	-6 C.	-6 C.
Nov. 12, 7½	Lake Temisconta.	373	754·25	-9 C.	-9 C.
	At Madawaska.	373	755·45	-9 C.	-9
Nov. 14,	At the Great Falls, fourteen feet below the standard barometer in the Observatory.	B. 373 377	29·576 751·4 751·3	35 +1 +2	35 +2 +2

On examination of the above observations it is apparent, that such a discrepancy exists between some of them, the barometers not agreeing with each other, that it would lead to an erroneous conclusion, to infer the heights from such discordant sources only; they are therefore chiefly derived from other means, as detailed in the Report.

Having protracted their proceedings in the country, as before detailed, and as long as the season would permit, pursuant to their instructions, the Commissioners lost no time in proceeding to New York, and from thence to England.



In submitting this detail of the barometric reconnoissance of the disputed territory, it is not intended to insist, that the observations and results are the most perfect that could have been made under any circumstances. A slight examination of the map will show, that the elevations determined apply to a distance upwards of 250 miles in length, viz.—from the Bay of Chaleurs to the head waters of the Penobscot. Owing to the pressing emergency of the case, two months only of open season could be devoted to the examination, including all the difficulties of exploring an almost unknown region, not admitting of celerity of movement, by the total want of roads, or the use of animals for transport of any kind.

Under these circumstances it would be obviously presumptuous to pretend, that the results are, in all cases, absolutely correct, even as far as the nature of barometers will allow.

But as the difference between the real and assumed elevation of the starting point at the Great Falls is no less than 1500 feet, and as the assumption of the American high-lands, at the lake Metise result from that assumed difference, it was not a *small quantity* which was required to be determined.

Barometers of a far inferior construction to those employed for the purpose, and observations far more loosely made, and less carefully registered, would have been amply sufficient to determine the existence, or non-existence, of the assumed facts.

Were not the proofs ample to show, as ascertained by the corresponding height of the Great Falls, deduced barometrically from the Bay of Chaleurs, and by actual level from the tide at Chapel Bar, that the atmospheric influences, in the lower strata at least, are continuous and correspondent over a considerable space of the earth's surface, it might be supposed that the distance of the standard barometer at the Great Falls was, in most cases, too great for comparison within reasonable limits of accuracy. This is, no doubt, the fact to a certain extent. An examination of the simultaneous observations at the Great Falls, and at other distant places, with the intervals between them, will make manifest that an error must frequently result from the differences of condition of the atmosphere, then prevailing at the respective places. But a similar investigation will also prove, that in no case did such a want of accordance exist, to render the argument of a continuous line of maximum elevation liable to dispute, beyond comparatively insignificant limits.

The British Association for the Advancement of Science have instituted a series of barometric observations, including the record of other atmospheric phenomena, which has been carried on uninterruptedly and hourly, day and night, for a period exceeding three years. The results have demonstrated a prevailing law which is found to affect the height of the mercurial column, between the morning and evening observations. They are not yet made public; but an opportunity has offered of testing some of the observations made at the Great Falls by this law, and it is found that the same inferences are deduced in both cases. It will hereafter be expedient, with the permission of Her Majesty's principal Secretary of State for the Foreign Department, to examine analytically the whole series of observations made in the disputed territory, with a view to lay them before the scientific world in a more mature form than is now practicable.

It is only necessary to observe further, that whatever might have been the result, obtained by establishing the standard barometer at the Great Falls, it was the only place in or near the disputed territory, the actual height of which had been previously determined, or could be ascertained; and that after personal examination of the district, experience has shown it to be the best which could have been selected, even had a more perfect knowledge of the country existed before commencing the operations.

The barometric observations as detailed are complete and faithful copies from the original registers, in the hand-writing of the respective parties, which are deposited in the Foreign Office.

RICH. Z. MUDGE,

G. W. FEATHERSTONHAUGH,

} Commissioners.



MAP  
of that portion of  
HER MAJESTY'S COLONIES OF  
NEW BRUNSWICK AND LOWER CANADA

THE TITLE TO WHICH IS DISPUTED BY THE **GOVERNMENT OF THE U. STATES** WITH PARTS OF THE ADJACENT COUNTRY

*The Rise and Course of the Rivers, with the direction of the Highlands, and their elevation above the Sea, expressed in English feet, from Barometrical admeasurements, to accompany a report of the investigation of that Country which the*

R: HON: VISCOUNT PALMERSTON G.C.B.  
HER MAJESTY'S PRINCIPAL SECRETARY OF STATE  
*directed to be made*  
A.D. 1839

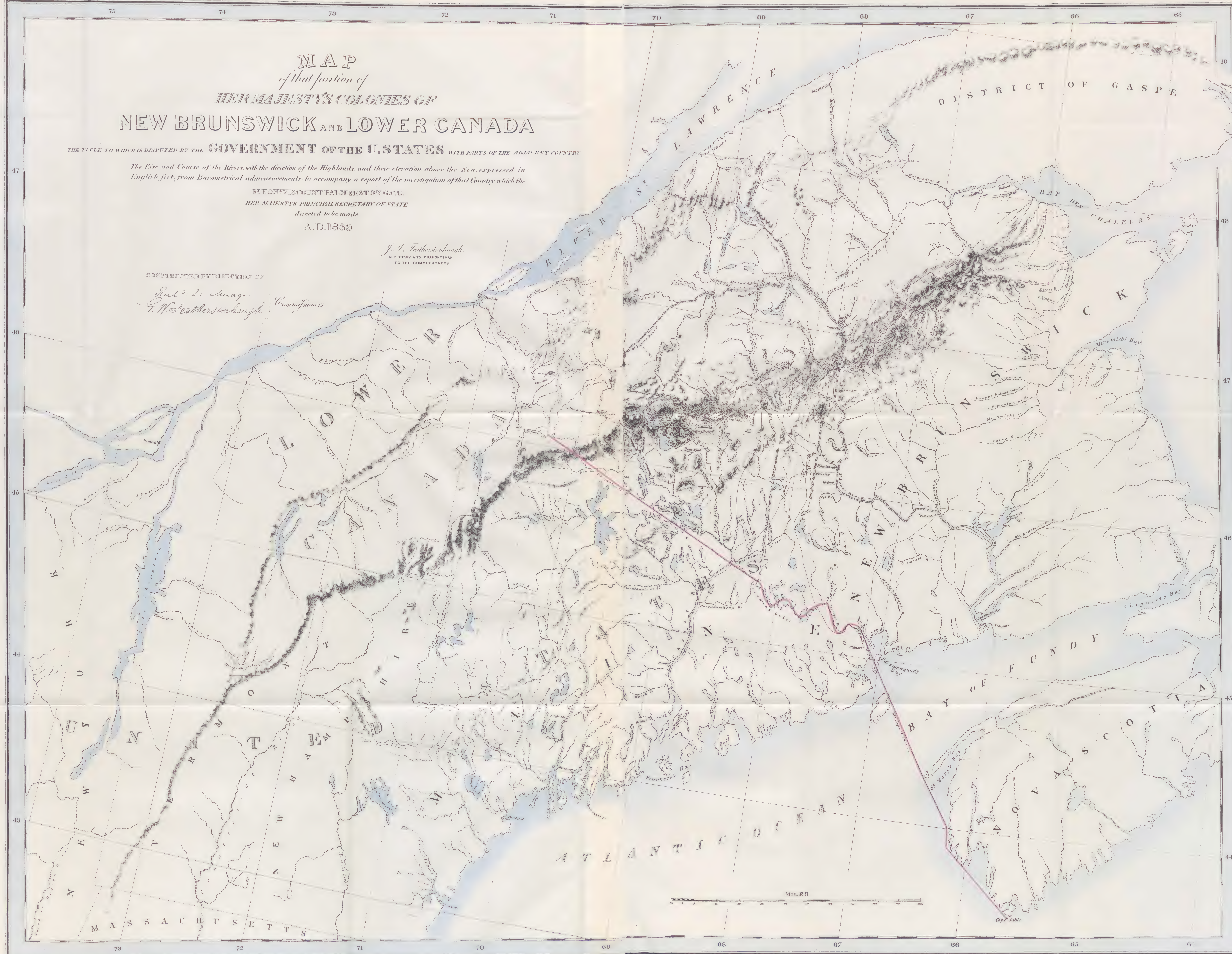
*J. Y. Featherstonhaugh.*  
SECRETARY AND DRAUGHTSMAN  
TO THE COMMISSIONERS

CONSTRUCTED BY DIRECTION OF

Sub 2: Judge  
G. W. Featherstonhaugh. Commissioners.

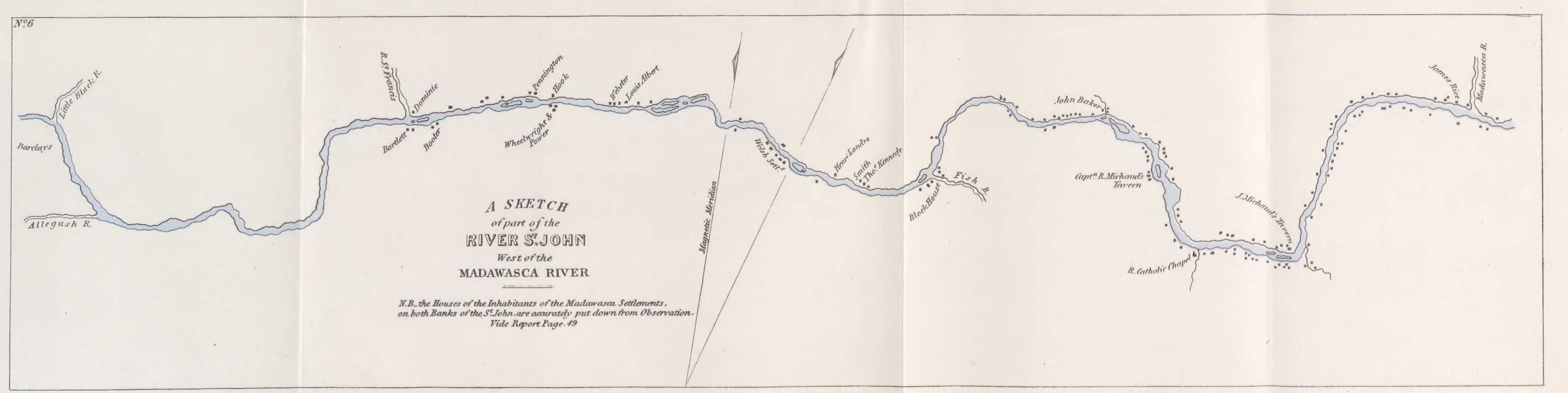
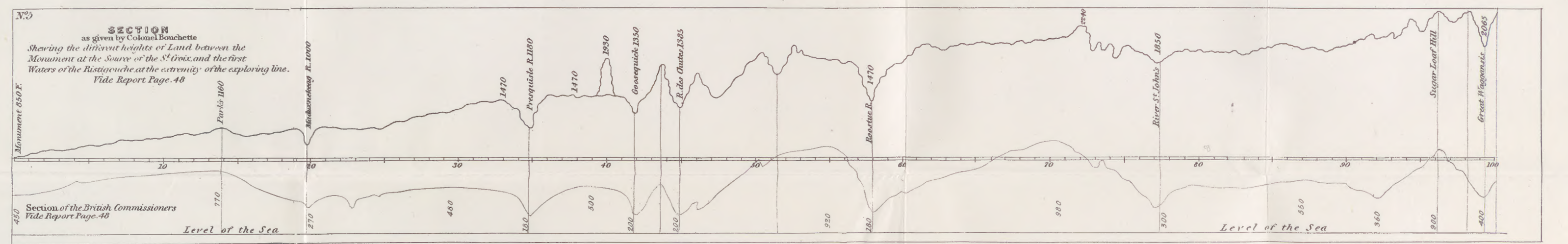
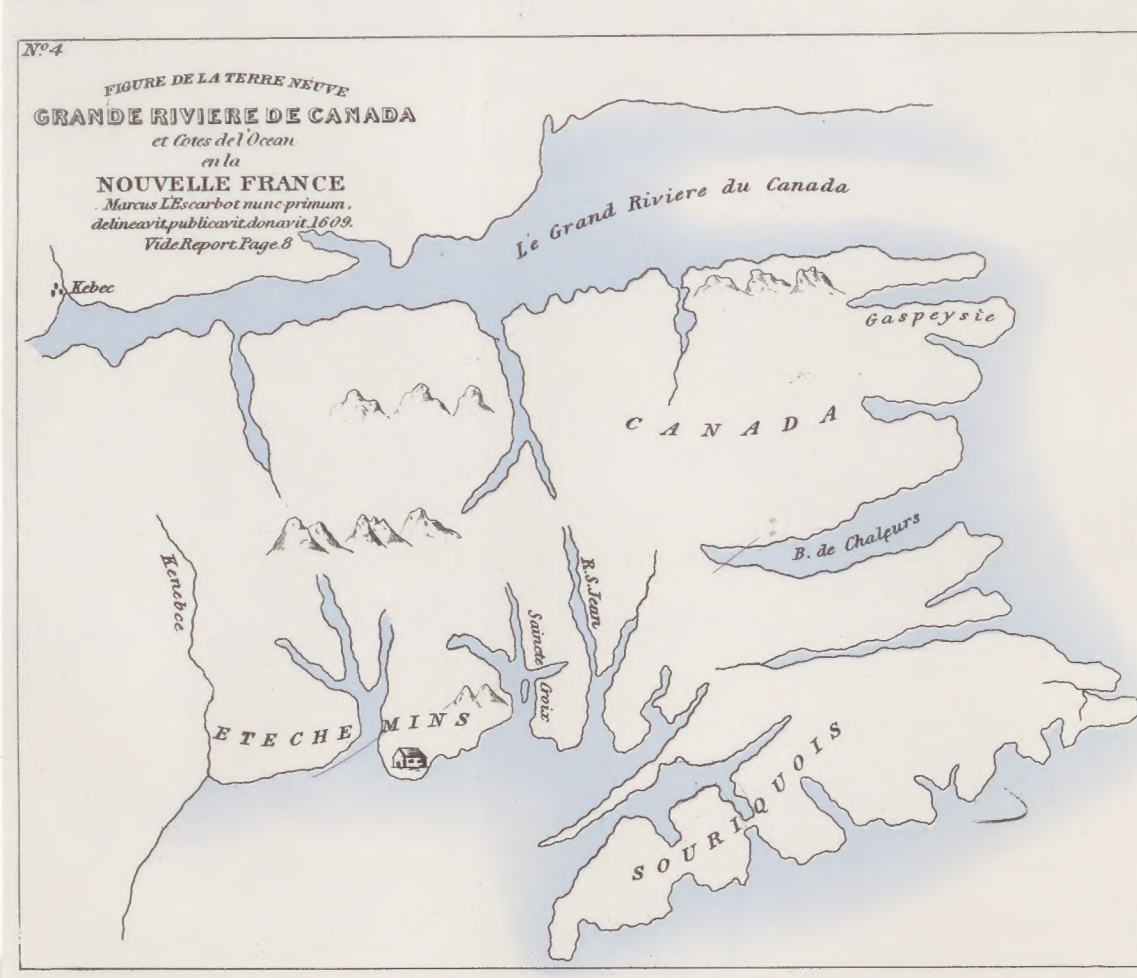
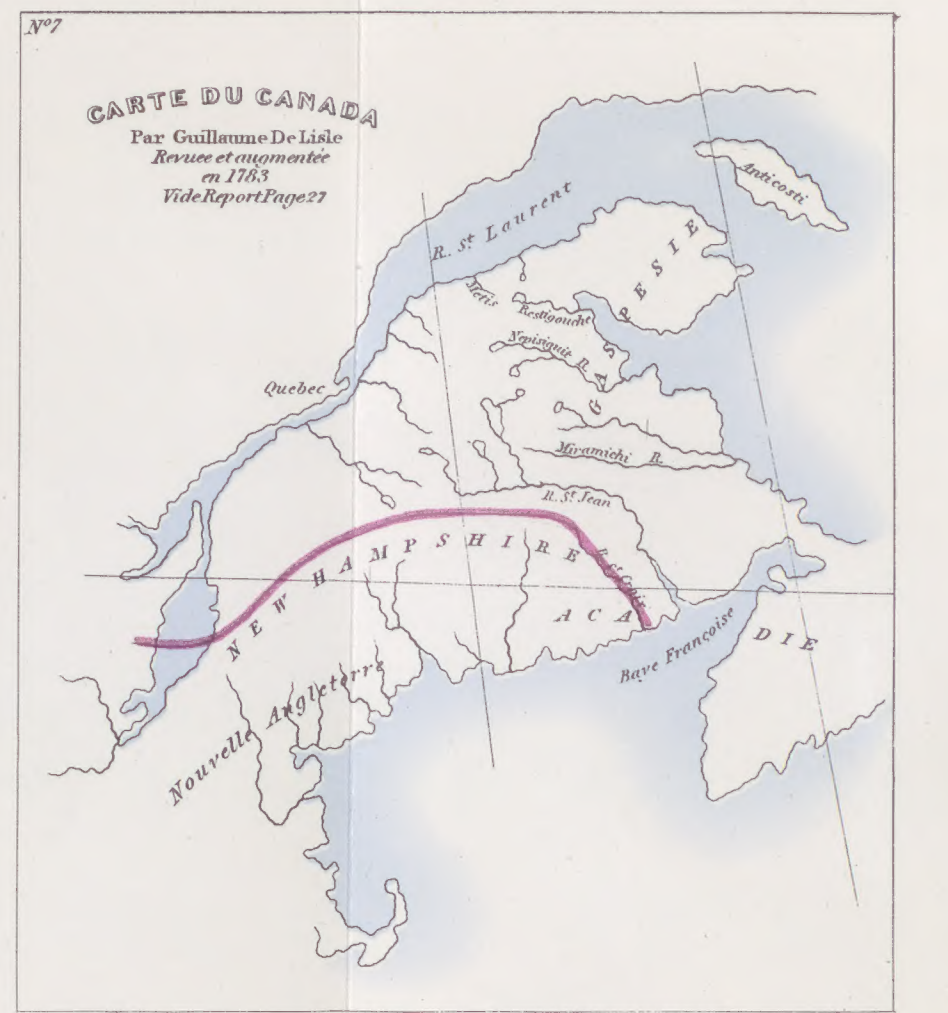
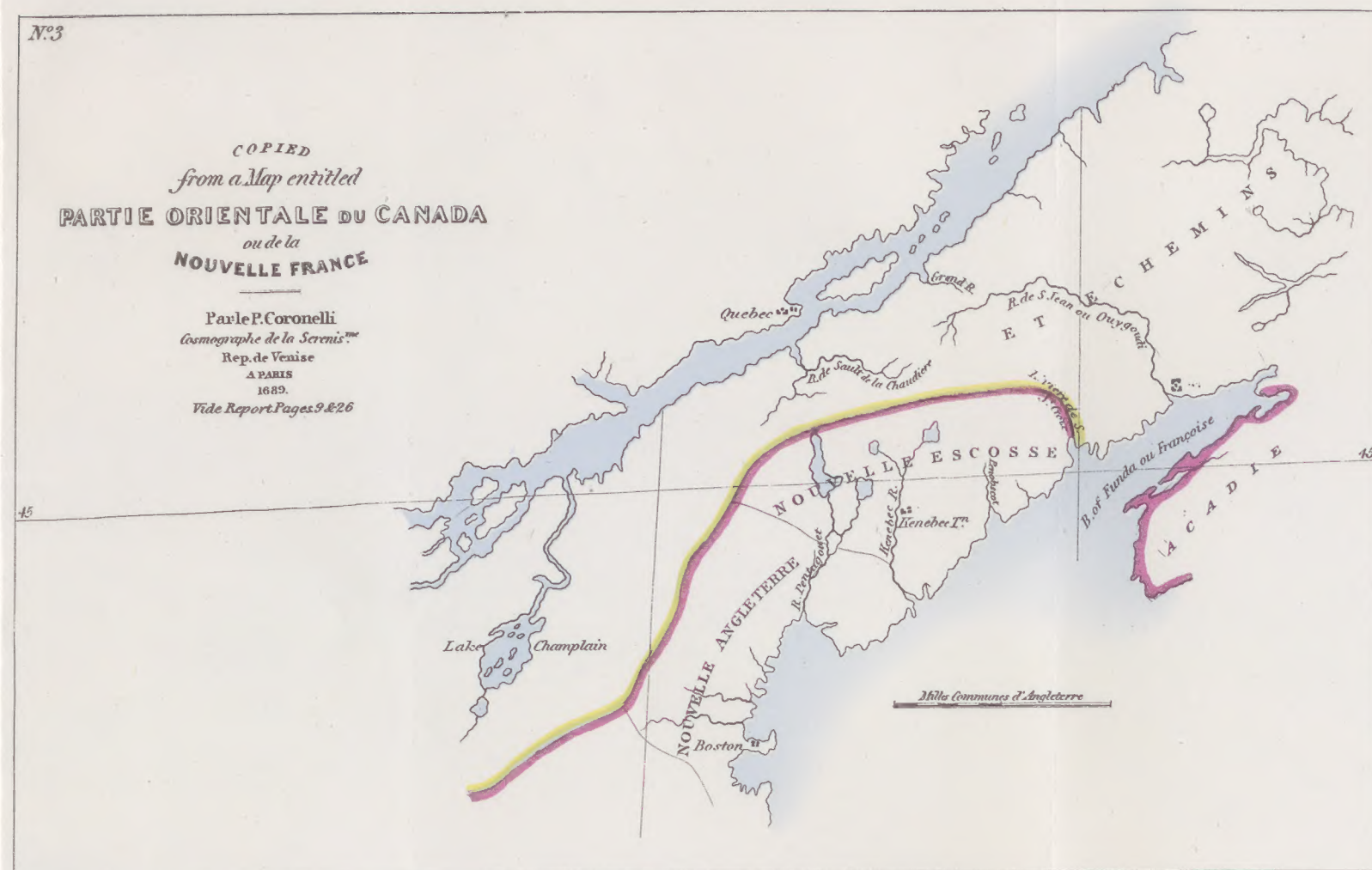
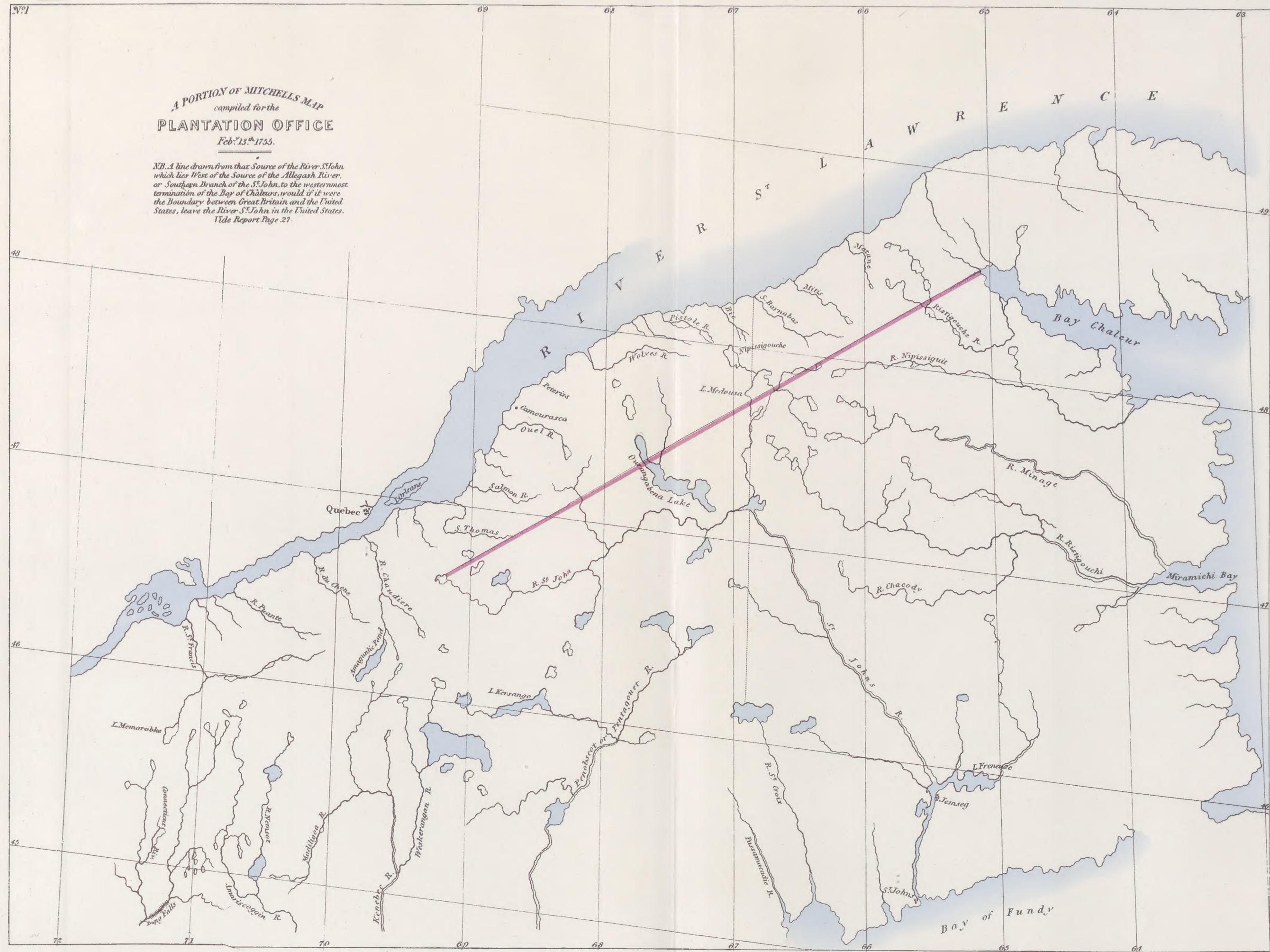
SECTION OF THE COUNTRY FROM THE BAY DES CHALEURS TO THE SOUTH EASTERN SOURCES OF THE ST. JOHNS RIVER

SECTION OF THE COUNTRY ALONG THE DUE NORTH LINE



Engraved by Jas<sup>d</sup> Wild, Geographer to the Queen Charing Cross East London.







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